

People First Language 2019

1.(a) [12.(a)] -- Unit 1 is Effective October 1, 2019

"§ 122C-3. Definitions.

The following definitions apply in this Chapter:

- (1) ~~"Area authority" means the~~ Area authority. – The area mental health, developmental disabilities, and substance abuse authority.
- (2) ~~"Area board" means the~~ Area board. – The area mental health, developmental disabilities, and substance abuse board.
- (2a) ~~"Area director" means the~~ Area director. – The administrative head of the area authority program appointed pursuant to G.S. 122C-121.
- (2b) ~~"Board of county commissioners" includes~~ Board of county commissioners. – Includes the participating boards of county commissioners for multicounty area authorities and multicounty programs.
- (3) ~~"Camp Butner reservation" means the~~ Camp Butner reservation. – The original Camp Butner reservation as may be designated by the Secretary as having been acquired by the State and includes not only areas which are owned and occupied by the State but also those which may have been leased or otherwise disposed of by the State, and ~~shall also include~~ also includes those areas within the municipal boundaries of the Town of Butner and that portion of the extraterritorial jurisdiction of the Town of Butner consisting of lands not owned by the State of North Carolina.
- (4) ~~"City" has the same meaning as~~ City. – As defined in G.S. 153A-1(1).
- (5) ~~"Catchment area" means the~~ Catchment area. – The geographic part of the State served by a specific area authority or county program.

- (6) ~~"Client" means an~~ Client. – An individual who is admitted to and receiving service from, or who in the past had been admitted to and received services from, a facility.
- (7) ~~"Client advocate" means a~~ Client advocate. – A person whose role is to monitor the protection of client rights or to act as an individual advocate on behalf of a particular client in a facility.
- (8) ~~"Commission" means the~~ Commission. – The Commission for Mental Health, Developmental Disabilities, and Substance Abuse Services, established under Part 4 of Article 3 of Chapter 143B of the General Statutes.
- (8a) ~~"Commitment examiner" means a~~ Commitment examiner. – *A physician, an eligible psychologist, or any health professional or mental health professional who is certified under G.S. 122C-263.1 to perform the first examination for involuntary commitment described in G.S. 122C-263(c) or G.S. 122C-283(c) as required by Parts 7 and 8 of this Article.*
- (9) ~~"Confidential information" means any~~ Confidential information. – Any information, whether recorded or not, relating to an individual served by a facility that was received in connection with the performance of any function of the facility. "Confidential information" does not include statistical information from reports and records or information regarding treatment or services which is shared for training, treatment, habilitation, or monitoring purposes that does not identify clients either directly or by reference to publicly known or available information.
- (9a) ~~"Core services" are services~~ Core services. – Services that are necessary for the basic foundation of any service delivery system. Core services are of two types: front-end service capacity such as screening, assessment, and

1 emergency triage, and indirect services such as prevention, education, and
 2 consultation at a community level.

3 (10) ~~"County of residence" of a client means the County of residence. – The county~~
 4 ~~of his a client's domicile at the time of his or her admission or commitment to~~
 5 ~~a facility. A county of residence is not changed because an individual is~~
 6 ~~temporarily out of his or her county in a facility or otherwise.~~

7 (10a) ~~"County program" means a County program. – A mental health,~~
 8 ~~developmental disabilities, and substance abuse services program established,~~
 9 ~~operated, and governed by a county pursuant to G.S. 122C-115.1.~~

10 (11) ~~"Dangerous to self or others" means: Dangerous to self or others. -~~

11 a. ~~"Dangerous to self" means that within Dangerous to self. – Within the~~
 12 ~~relevant past: past, the individual has done any of the following:~~

13 1. The individual has acted in such a way as to ~~show: show all the~~
 14 ~~following:~~

15 I. ~~That he The individual~~ would be unable, without care,
 16 supervision, and the continued assistance of others not
 17 otherwise available, to exercise self-control, judgment,
 18 and discretion in the conduct of ~~his the individual's~~
 19 daily responsibilities and social relations, or to satisfy
 20 ~~his the individual's~~ need for nourishment, personal or
 21 medical care, shelter, or self-protection and ~~safety;~~
 22 ~~and safety.~~

23 II. ~~That there There~~ is a reasonable probability of ~~his the~~
 24 ~~individual's~~ suffering serious physical debilitation
 25 within the near future unless adequate treatment is
 26 given pursuant to this Chapter. A showing of behavior

that is grossly irrational, of actions that the individual is unable to control, of behavior that is grossly inappropriate to the situation, or of other evidence of severely impaired insight and judgment shall create a prima facie inference that the individual is unable to care for ~~himself; or~~ himself or herself.

2. The individual has attempted suicide or threatened suicide and that there is a reasonable probability of suicide unless adequate treatment is given pursuant to this ~~Chapter; or~~ Chapter.

3. The individual has mutilated himself or herself or has attempted to mutilate himself or herself and that there is a reasonable probability of serious self-mutilation unless adequate treatment is given pursuant to this Chapter.

Previous episodes of dangerousness to self, when applicable, may be considered when determining reasonable probability of physical debilitation, suicide, or self-mutilation.

b. ~~"Dangerous to others" means that within~~ Dangerous to others. –
Within the relevant past, the individual has inflicted or attempted to inflict or threatened to inflict serious bodily harm on another, or has acted in such a way as to create a substantial risk of serious bodily harm to another, or has engaged in extreme destruction of property; and that there is a reasonable probability that this conduct will be repeated. Previous episodes of dangerousness to others, when applicable, may be considered when determining reasonable probability of future dangerous conduct. Clear, cogent, and convincing

evidence that an individual has committed a homicide in the relevant past is prima facie evidence of dangerousness to others.

(11a) ~~"Day/night service" means a Day/night service.~~ – A service provided on a regular basis, in a structured environment that is offered to the same individual for a period of three or more hours within a 24-hour period.

(12) ~~"Department" means the Department.~~ – The North Carolina Department of Health and Human Services.

(12a) ~~"Developmental disability" means a Developmental disability.~~ – A severe, chronic disability of a person ~~which~~ that satisfies all of the following:

a. Is attributable to a mental or physical impairment or combination of mental and physical ~~impairments; impairments.~~

b. Is manifested before the person attains age 22, unless the disability is caused by a traumatic head injury and is manifested after age ~~22; 22.~~

c. Is likely to continue ~~indefinitely; indefinitely.~~

d. Results in substantial functional limitations in three or more of the following areas of major life activity: self-care, receptive and expressive language, capacity for independent living, learning, mobility, ~~self-direction self-direction,~~ and economic ~~self-sufficiency; and self-sufficiency.~~

e. Reflects the person's need for a combination and sequence of special interdisciplinary, or generic care, treatment, or other services which are of a lifelong or extended duration and are individually planned and ~~coordinated; or coordinated.~~

f. ~~When applied to children from birth through four years of age, may be evidenced as a developmental delay.~~

When applied to children from birth through four years of age, a developmental disability may be evidenced as a developmental delay.

(13) ~~"Division" means the~~ Division. – The Division of Mental Health, Developmental Disabilities, and Substance Abuse Services of the Department.

(13a) Repealed by Session Laws 2000-67, s. 11.21(c), effective July 1, 2000.

(13a1) Recodified as subdivision (13c).

(13b) Recodified as subdivision (13d).

(13c) ~~"Eligible infants and toddlers" means children~~ Eligible infants and toddlers. – Children with or at risk for developmental delays or atypical development ~~until~~ until all of the following have occurred:

- a. They have reached their third ~~birthday~~ birthday.
- b. Their parents have requested to have them receive services in the preschool program for children with disabilities established under Article 9 of Chapter 115C of the General Statutes; ~~and Statutes.~~
- c. They have been placed in the program by the local educational agency.

In no event shall a child be considered an eligible toddler after the beginning of the school year immediately following the child's third birthday, unless the Secretary and the State Board enter into an agreement under ~~G.S. 115C-106.4(c)~~ [G.S. 115C-107.1(c)] G.S. 115C-107.1(c).

The early intervention services that may be provided for these children and their families include early identification and screening, multidisciplinary evaluations, case management services, family training, counseling and home visits, psychological services, speech pathology and audiology, and occupational and physical therapy. All evaluations performed as part of early intervention services shall be appropriate to the individual child's age and development.

(13d) ~~"Eligible psychologist" means a~~ Eligible psychologist. – A licensed psychologist who has at least two years' clinical experience. After January 1, 1995, "eligible psychologist" means a licensed psychologist who holds permanent licensure and certification as a health services provider psychologist issued by the North Carolina Psychology Board.

(14) ~~"Facility" means any Facility. – Any person at one location whose primary purpose is to provide services for the care, treatment, habilitation, or rehabilitation of the mentally ill, the developmentally disabled, individuals with mental illnesses or intellectual or developmental disabilities or substance abusers, and~~ includes all of the following:

a. An "area ~~facility", facility,~~" which is a facility that is operated by or under contract with the area authority or county program. For the purposes of this subparagraph, a contract is a contract, memorandum of understanding, or other written agreement whereby the facility agrees to provide services to one or more clients of the area authority or county program. Area facilities may also be licensable facilities in accordance with Article 2 of this Chapter. A State facility is not an area ~~facility; facility.~~

b. A "licensable facility", facility," which is a facility for one or more minors or for two or more adults that provides services to individuals who are mentally ill, developmentally disabled, have mental illnesses or intellectual or developmental disabilities or are substance abusers for one or more minors or for two or more adults. abusers. These services shall be day services offered to the same individual for a period of three hours or more during a 24-hour period, or residential services provided for 24 consecutive hours or more. Facilities for

individuals who are substance abusers include chemical dependency
~~facilities;~~facilities.

c. A "private ~~facility~~", ~~facility,~~" which is a facility that is either a
 licensable facility or a special unit of a general hospital or a part of
 either in which the specific service provided is not covered under the
 terms of a contract with an area ~~authority;~~authority.

d. The psychiatric service of the University of North Carolina Hospitals
 at Chapel ~~Hill;~~Hill.

e. A "residential ~~facility~~", ~~facility,~~" which is a 24-hour facility that is not
 a hospital, including a group ~~home;~~home.

f. A "State facility", which is a facility that is operated by the
~~Secretary;~~Secretary.

g. A "24-hour ~~facility~~", ~~facility,~~" which is a facility that provides a
 structured living environment and services for a period of 24
 consecutive hours or more and includes hospitals that are facilities
 under this ~~Chapter;~~ and Chapter.

h. A Veterans Administration facility or part thereof that provides
 services for the care, treatment, habilitation, or rehabilitation of ~~the~~
~~mentally ill, the developmentally disabled, individuals with mental~~
~~illnesses or intellectual or developmental disabilities~~ or substance
 abusers.

(15) ~~"Guardian" means a~~ Guardian. – A person appointed as a guardian of the
 person or general guardian by the court under Chapters 7A or 35A or former
 Chapters 33 or 35 of the General Statutes.

(16) ~~"Habilitation" means training,~~ Habilitation. – Training, care, and specialized therapies undertaken to assist a client in maintaining his current level of functioning or in achieving progress in developmental skills areas.

(16a) ~~"Health screening" means an~~ Health screening. – An appropriate screening suitable for the symptoms presented and within the capability of the entity, including ancillary services routinely available to the entity, to determine whether or not an emergency medical condition exists. An emergency medical condition exists if an individual has acute symptoms of sufficient severity, including severe pain, such that the absence of immediate medical attention could reasonably be expected to result in placing the individual's health in serious jeopardy, serious impairment to bodily functions, or serious dysfunction of any bodily organ or part.

(16b) ~~"Incapable" with~~ Incapable. – With respect to an ~~individual has the same definition set forth~~ individual, as defined in G.S. 122C-72(4). *An adult individual who is incapable is not the same as an incompetent adult unless the adult individual has been adjudicated incompetent under Chapter 35A of the General Statutes.*

(17) ~~"Incompetent adult" means an~~ Incompetent adult. – An adult individual *who has been adjudicated incompetent under Chapter 35A of the General Statutes.*

(17a) Intellectual disability. – Significantly subaverage general intellectual functioning existing concurrently with deficits in adaptive behavior and manifested before age 22.

(18) ~~"Intoxicated" means the~~ Intoxicated. – The condition of an individual whose mental or physical functioning is presently substantially impaired as a result of the use of alcohol or other substance.

(19) ~~"Law enforcement officer" means sheriff,~~ Law-enforcement officer. – Sheriff,
 deputy sheriff, police officer, State highway patrolman, or an officer
 employed by a city or county under G.S. 122C-302.

(20) ~~"Legally responsible person" means:~~ Legally responsible person. – The
following:

a. ~~(i) when~~ When applied to an adult, ~~adult~~ who has been adjudicated
incompetent, a ~~guardian;~~ guardian.

b. ~~(ii) when~~ When applied to a minor, a parent, guardian, a person
standing in loco parentis, or a legal custodian other than a parent who
has been granted specific authority by law or in a custody order to
consent for medical care, including psychiatric ~~treatment;~~ treatment.

c. ~~or (iii) when~~ When applied to an adult who is incapable as defined in
G.S. 122C-72(4) and who has not been adjudicated incompetent, a
health care agent named pursuant to a valid health care power of
attorney; provided that if attorney. If an incapable adult does not have
a health care agent or guardian, "legally responsible person" means
one of the persons specified in subdivisions (3) through (7) of
subsection (c) of G.S. 90-21.13, to be selected based on the priority
indicated in said subdivisions (3) through (7). ~~those subdivisions.~~

(20a) ~~"Local funds" means fees~~ Local funds. – Fees from services, including client
 payments, Medicare and the local and federal share of Medicaid receipts, fees
 from agencies under contract, gifts and donations, and county and municipal
 funds, and any other funds not administered by the Division.

(20b) ~~"Local management entity" or "LME" means an~~ Local management entity
(LME). – An area authority.

(20c) ~~"Local management entity/managed care organization" or "LME/MCO"~~
~~means a~~ Local management entity/managed care organization (LME/MCO).
~~– A~~ local management entity that is under contract with the Department to
 operate the combined Medicaid Waiver program authorized under Section
 1915(b) and Section 1915(c) of the Social Security Act.

(21) ~~"Mental illness" means:~~ Mental illness. – The following:

a. ~~(i) when~~ When applied to an adult, an illness which so lessens the
 capacity of the individual to use self-control, judgment, and discretion
 in the conduct of ~~his~~ the individual's affairs and social relations as to
 make it necessary or advisable for ~~him~~ the individual to be under
 treatment, care, supervision, guidance, or ~~control~~; and control.

b. ~~(ii) when~~ When applied to a minor, a mental condition, other than
~~mental retardation~~ an intellectual disability alone, that so impairs the
~~youth's~~ minor's capacity to exercise age adequate self-control or
 judgment in the conduct of ~~his~~ the minor's activities and social
 relationships so that ~~he~~ the minor is in need of treatment.

(22) ~~"Mental retardation" means significantly subaverage general intellectual
 functioning existing concurrently with deficits in adaptive behavior and
 manifested before age 22.~~

(23) ~~"Mentally retarded with accompanying behavior disorder" means an
 individual who is mentally retarded and who has a pattern of maladaptive
 behavior that is recognizable no later than adolescence and is characterized by
 gross outbursts of rage or physical aggression against other individuals or
 property.~~

(23a) ~~"Minimally adequate services" means a~~ Minimally adequate services. – A
 level of service required for compliance with all applicable State and federal

laws, rules, regulations, and policies and with generally accepted professional standards and principles.

(24) ~~"Next of kin" means the~~ Next of kin. – The individual designated in writing by the client or ~~his~~ the client's legally responsible person upon the client's acceptance at a ~~facility; provided that if~~ facility. If no such designation has been made, "next of kin" means the client's spouse or nearest blood relation in accordance with G.S. 104A-1.

(25) ~~"Operating costs" means expenditures~~ Operating costs. – Expenditures made by an area authority in the delivery of services for mental health, developmental disabilities, and substance abuse as provided in this Chapter and includes the employment of legal counsel on a temporary basis to represent the interests of the area authority.

(26) Repealed by Session Laws 1987, c. 345, s. 1.

(26a) ~~"Other recipient" means an~~ Other recipient. – An individual who is not admitted to a facility but who receives a service other than care, treatment, or rehabilitation services. The services that the "other recipient" may receive include consultative, preventative, educational, and assessment services.

(27) ~~"Outpatient treatment" as~~ Outpatient treatment. – As used in Part 7 of Article 5 of this Chapter, means treatment in an outpatient setting and may include medication, individual or group therapy, day or partial day programming activities, services and training including educational and vocational activities, supervision of living arrangements, and any other services prescribed either to alleviate the individual's illness or disability, to maintain semi-independent functioning, or to prevent further deterioration that may reasonably be predicted to result in the need for inpatient commitment to a 24-hour facility.

- (27a) ~~"Outpatient treatment physician or center" as~~ Outpatient treatment physician
~~or center. – As~~ used in Part 7 of Article 5 of this Chapter means a Chapter, a
physician or center that provides treatment services directly to the outpatient
commitment respondent. An LME/MCO that contracts with an outpatient
treatment physician or center to provide outpatient treatment services to a
respondent is not an outpatient treatment physician or center. Every
LME/MCO is responsible for contracting with qualified providers of services
in accordance with G.S. 122C-141, 122C-142(a), 122C-115.2(b)(1)b., and
122C-115.4(b)(2) to ensure the availability of qualified providers of
outpatient commitment services to clients of LME/MCOs who are respondents
to outpatient commitment proceedings and meet the criteria for outpatient
commitment. A contracted provider with an LME/MCO shall not be
designated as an outpatient treatment physician or center on an outpatient
commitment order unless the respondent enrolled with an LME/MCO or is
eligible for services through an LME/MCO, or the respondent otherwise
qualifies for the provision of services offered by the provider.
- (28) ~~"Person" means any~~ Person. – Any individual, firm, partnership, corporation,
company, association, joint stock association, agency, or area authority.
- (29) ~~"Physician" means an~~ Physician. – An individual licensed to practice medicine
in North Carolina under Chapter 90 of the General Statutes or a licensed
medical doctor employed by the Veterans Administration.
- (29a) *Repealed by Session Laws 2018-33, s. 1, effective October 1, 2019, and*
applicable to proceedings initiated on or after that date.
- (30) ~~"Provider of support services" means a~~ Provider of support services. – A
person that provides to a facility support services such as data processing,

dosage preparation, laboratory analyses, or legal, medical, accounting, or other professional services, including human services.

(30a) ~~"Psychologist" means an~~ Psychologist. – An individual licensed to practice psychology under Chapter ~~90.90 of the General Statutes.~~ The term "eligible psychologist" is defined in subdivision ~~(13a).~~ (13d) of this section.

(30b) ~~"Public services" means publicly~~ Public services. – Publicly funded mental health, developmental disabilities, and substance abuse services, whether provided by public or private providers.

(31) ~~"Qualified professional" means any~~ Qualified professional. – Any individual with appropriate training or experience as specified by the General Statutes or by rule of the Commission in the fields of mental health or developmental disabilities or substance abuse treatment or habilitation, including physicians, psychologists, psychological associates, educators, social workers, registered nurses, certified fee-based practicing pastoral counselors, and certified counselors.

(32) ~~"Responsible professional" means an~~ Responsible professional. – An individual within a facility who is designated by the facility director to be responsible for the care, treatment, habilitation, or rehabilitation of a specific client and who is eligible to provide care, treatment, habilitation, or rehabilitation relative to the client's disability.

(33) ~~"Secretary" means the~~ Secretary. – The Secretary of the Department of Health and Human Services.

(33a) ~~"Severe and persistent mental illness" means a~~ Severe and persistent mental illness. – A mental disorder suffered by persons of 18 years of age or older that leads these persons to exhibit emotional or behavioral functioning that is so impaired as to interfere substantially with their capacity to remain in the

community without supportive treatment or services of a long term or indefinite duration. This disorder is a severe and persistent mental disability, resulting in a long-term limitation of functional capacities for the primary activities of daily living, such as interpersonal relations, homemaking, self-care, employment, and recreation.

(34) Repealed by Session Laws 2001-437, s. 1.2(c), effective July 1, 2002.

(35) Repealed by Session Laws 2001-437, s. 1.2(c), effective July 1, 2002.

(35a) Renumbered as subdivision (35e).

(35b) ~~"Specialty services" means services~~ Specialty services. – Services that are provided to consumers from low-incidence populations.

(35c) ~~"State" or "Local" Consumer Advocate means the~~ State or Local Consumer Advocate. – The individual carrying out the duties of the State or Local Consumer Advocacy Program Office in accordance with Article 1A of this Chapter.

(35d) ~~"State Plan" means the~~ State Plan. – The State Plan for Mental Health, Developmental Disabilities, and Substance Abuse Services.

(35e) ~~"State resources" means~~ State resources. – State and federal funds and other receipts administered by the Division.

(36) ~~"Substance abuse" means the~~ Substance abuse. – The pathological use or abuse of alcohol or other drugs in a way or to a degree that produces an impairment in personal, social, or occupational functioning. "Substance abuse" may include a pattern of tolerance and withdrawal.

(37) ~~"Substance abuser" means an~~ Substance abuser. – An individual who engages in substance abuse.

(38) ~~"Targeted population" means those~~ Targeted population. – Those individuals who are given service priority under the State Plan.

1 (39) ~~"Uniform portal process"~~ means a Uniform portal process. – A standardized
2 process and procedures used to ensure consumer access to, and exit from,
3 public services in accordance with the State Plan."

4 *[Staff Note: The term "mentally retarded with accompanying behavior disorder" is never used*
5 *anywhere in Chapter 122C of the General Statutes.]*
6

1 **1.(b) [12.(b)]**

2 **"§ 122C-57. Right to treatment and consent to treatment.**

3 (a) Each client who is admitted to and is receiving services from a facility has the right
4 to receive age-appropriate treatment for ~~mental health, mental retardation, and substance abuse~~
5 illness or disability, a mental illness, an intellectual or developmental disability, substance abuse,
6 or a combination thereof. Each client within 30 days of admission to a facility shall have an
7 individual written treatment or habilitation plan implemented by the facility. The client and the
8 client's legally responsible person shall be informed in advance of the potential risks and alleged
9 benefits of the treatment choices.

10 (b) Each client has the right to be free from unnecessary or excessive medication.
11 Medication shall not be used for punishment, discipline, or staff convenience.

12 (c) Medication shall be administered in accordance with accepted medical standards and
13 only upon the order of a physician as documented in the client's record.

14 (d) Each voluntarily admitted client or the client's legally responsible person (including
15 a health care agent named pursuant to a valid health care power of attorney) has the right to
16 consent to or refuse any treatment offered by the facility. Consent may be withdrawn at any time
17 by the person who gave the consent. If treatment is refused, the qualified professional shall
18 determine whether treatment in some other modality is possible. If all appropriate treatment
19 modalities are refused, the voluntarily admitted client may be discharged. In an emergency, a
20 voluntarily admitted client may be administered treatment or medication, other than those
21 specified in subsection (f) of this section, despite the refusal of the client or the client's legally
22 responsible person, even if the client's refusal is expressed in a valid advance instruction for
23 mental health treatment. The Commission may adopt rules to provide a procedure to be followed
24 when a voluntarily admitted client refuses treatment.

(d1) Except as provided in G.S. 90-21.4, discharge of a voluntarily admitted minor from treatment shall include notice to and consultation with the minor's legally responsible person and in no event shall a minor be discharged from treatment upon the minor's request alone.

(e) In the case of an involuntarily committed client, treatment measures other than those requiring express written consent as specified in subsection (f) of this section may be given despite the refusal of the client, the client's legally responsible person, a health care agent named pursuant to a valid health care power of attorney, or the client's refusal expressed in a valid advance instruction for mental health treatment in the event of an emergency or when consideration of side effects related to the specific treatment measure is given and in the professional judgment, as documented in the client's record, of the treating physician and a second physician, who is either the director of clinical services of the facility, or the director's designee, ~~either that any of the following is true:~~

(1) The client, without the benefit of the specific treatment measure, is incapable of participating in any available treatment plan which will give the client a realistic opportunity of improving the client's ~~condition; condition.~~

(2) There is, without the benefit of the specific treatment measure, a significant possibility that the client will harm self or others before improvement of the client's condition is realized.

(f) Treatment involving electroshock therapy, the use of experimental drugs or procedures, or surgery other than emergency surgery may not be given without the express and informed written consent of the client, the client's legally responsible person, a health care agent named pursuant to a valid health care power of attorney, or the client's consent expressed in a valid advance instruction for mental health treatment. This consent may be withdrawn at any time by the person who gave the consent. The Commission may adopt rules specifying other therapeutic and diagnostic procedures that require the express and informed written consent of

the client, the client's legally responsible person, or a health care agent named pursuant to a valid health care power of attorney."

1 **1.(c) [12.(c)]**

2 **"§ 122C-63. Assurance for continuity of care for individuals with ~~mental~~**
 3 **~~retardation~~ intellectual or developmental disabilities.**

4 (a) Any individual with ~~mental retardation~~ an intellectual or developmental disability
 5 admitted for residential care or treatment for other than respite or emergency care to any
 6 residential facility operated under the authority of this Chapter and supported all or in part by
 7 ~~state-appropriated~~ State-appropriated funds has the right to residential placement in an alternative
 8 facility if the client is in need of placement and if the original facility can no longer provide the
 9 necessary care or treatment.

10 (b) The operator of a residential facility providing residential care or treatment, for other
 11 than respite or emergency care, for individuals with ~~mental retardation~~ intellectual or
 12 developmental disabilities shall notify the area authority serving the client's county of residence
 13 of ~~his~~ the operator's intent to close a facility or to discharge a client who may be in need of
 14 continuing care at least 60 days prior to the closing or discharge.

15 The operator's notification to the area authority of intent to close a facility or to discharge a
 16 client who may be in need of continuing care constitutes the operator's acknowledgement of the
 17 obligation to continue to serve the client ~~until~~ until whichever of the following occurs first:

18 (1) The area authority determines that the client is not in need of continuing
 19 ~~care;~~ care.

20 (2) The client is moved to an alternative residential ~~placement;~~ or placement.

21 (3) Sixty days have ~~elapsed;~~ elapsed.

22 ~~whichever occurs first.~~

23 In cases in which the safety of the client who may be in need of continuing care, of other
 24 clients, of the staff of the residential facility, or of the general public, is concerned, this 60-day
 25 notification period may be waived by securing an emergency placement in a more secure and
 26 safe facility. The operator of the residential facility shall notify the area authority that an

1 emergency placement has been arranged within 24 hours of the placement. The area authority
2 and the Secretary shall retain their respective responsibilities upon receipt of this notice.

3 (c) An individual who may be in need of continuing care may be discharged from a
4 residential facility without further claim for continuing care against the area authority or the State
5 ~~if:~~if any of the following is true:

6 (1) After the parent or guardian, if the client is a minor or an adjudicated
7 incompetent adult, or the client, if an adult not adjudicated incompetent, has
8 entered into a contract with the operator upon the client's admission to the
9 original residential ~~facility facility,~~ the parent, guardian, or client who entered
10 into the contract refuses to carry out the ~~contract, or contract.~~

11 (2) After an alternative placement for a client in need of continuing care is located,
12 the parent or guardian who admitted the client to the residential facility, if the
13 client is a minor or an adjudicated incompetent adult, or the ~~client client,~~ if ~~the~~
14 ~~client is~~ an adult not adjudicated incompetent, refuses the alternative
15 placement.

16 (d) Decisions made by the area authority regarding the need for continued placement or
17 regarding the availability of an alternative placement of a client may be appealed pursuant to the
18 appeals process of the area authority and subsequently to the Secretary or the Commission under
19 their rules. If the appeal process extends beyond the operator's 60-day obligation to continue to
20 serve the client, the Secretary shall arrange a temporary placement in a ~~State facility for the~~
21 ~~mentally retarded State-operated developmental center~~ pending the outcome of the appeal.

22 (e) The area authority that serves the county of residence of the client is responsible for
23 assessing the need for continuity of care and for the coordination of the placement among
24 available public and private facilities whenever the authority is notified that a client may be in
25 need of continuing care. If an alternative placement is not available beyond the operator's 60-day
26 obligation to continue to serve the client, the Secretary shall arrange for a temporary placement

1 in a ~~State facility for the mentally retarded.~~State-operated developmental center. The area
2 authority shall retain responsibility for coordination of placement during a temporary placement
3 in a State facility.

4 (f) The Secretary is responsible for coordinative and financial assistance to the area
5 authority in the performing of its duties to coordinate placement so as to assure continuity of care
6 and for assuring a continuity of care placement beyond the operator's 60-day obligation period.

7 (g) The area authority's financial responsibility, through local and allocated State
8 resources, is limited ~~to:~~to the following:

9 (1) Costs relating to the identification and coordination of alternative
10 ~~placements;~~placements.

11 (2) If the original facility is an area facility, maintenance of the client in the
12 original facility for up to 60 ~~days; and~~days.

13 (3) Release of allocated categorical State funds used to support the care or
14 treatment of the specific client at the time of alternative placement if the
15 Secretary requires the release.

16 (h) In accordance with G.S. 143B-147(a)(1) the Commission shall develop programmatic
17 rules to implement this section, and, in accordance with G.S. 122C-112(a)(6), the Secretary shall
18 adopt budgetary rules to implement this section."

1 **1.(d) [12.(d)]**

2 **"§ 122C-202. Applicability of Article.**

3 This Article applies to all facilities unless expressly provided otherwise. Specific provisions
4 that are delineated by the disability of the client, whether ~~mentally ill, mentally retarded,~~
5 ~~developmentally disabled, or the client has a mental illness, has an intellectual or developmental~~
6 disability, or is a substance abuser, also apply to all facilities for that client's disability. Provisions
7 that refer to a specific facility or type of facility apply only to the designated facility or facilities."

1 **1.(e) [12.(e)]**

2 **"§ 122C-203. Admission or commitment and incompetency proceedings to have no effect**
3 **on one another.**

4 The admission or commitment to a facility of an ~~alleged mentally ill individual, individual~~
5 ~~who allegedly has a mental illness,~~ an alleged substance abuser, or an ~~alleged mentally retarded~~
6 ~~or developmentally disabled individual~~ individual who allegedly has an intellectual or
7 developmental disability under the provisions of this Article shall in no way affect incompetency
8 proceedings as set forth in Chapter 35A or former Chapters 33 or 35 of the General Statutes and
9 incompetency proceedings under those Chapters shall have no effect upon admission or
10 commitment proceedings under this Article."

1 **1.(f) [12.(f)]**

2 **"§ 122C-241. Admissions.**

3 (a) Except as provided in subsection (c) of this section an individual with developmental
4 disabilities may be admitted to a facility for ~~the developmentally disabled individuals with~~
5 ~~developmental disabilities in order that he to~~ receive care, habilitation, rehabilitation, training, or
6 treatment. Application for admission is made as follows:

7 (1) A minor with developmental disabilities may be admitted upon application by
8 both the father and the mother if they are living together and, if not, by the
9 parent or parents having custody or by the legally responsible person.

10 (2) An adult with developmental disabilities who has been adjudicated
11 incompetent under Chapter 35A or former Chapters 33 or 35 of the General
12 Statutes may be admitted upon application by ~~his~~ the adult's guardian.

13 (3) An adult with developmental disabilities who has not been adjudicated
14 incompetent under Chapter 35A or former Chapters 33 or 35 of the General
15 Statutes may be admitted upon ~~his~~ the adult's own application.

16 (b) Prior to admission to a 24-hour facility, the individual shall be examined and
17 evaluated by a physician or psychologist to determine whether the individual ~~is developmentally~~
18 ~~disabled. has a developmental disability.~~ In addition, the individual shall be examined and
19 evaluated by a qualified developmental disabilities professional no sooner than 31 days prior to
20 admission or within 72 hours after admission to determine whether the individual is in need of
21 care, habilitation, rehabilitation, ~~training~~ training, or treatment by the facility. If the evaluating
22 professional determines that the individual will not benefit from an admission, the individual
23 shall not be admitted as a client.

24 (c) An admission to an area or State 24-hour facility of an individual from a single portal
25 area shall follow the procedures as prescribed in the area plan. When an individual from a single
26 portal area presents himself or herself or is presented for admission ~~to a State facility for the~~

1 ~~mentally retarded directly~~ directly to a State facility for individuals with developmental
2 disabilities and is in need of an emergency admission, he or she may be accepted for admission.
3 The State facility shall notify the area authority within 24 hours of the admission and further
4 planning of treatment for the individual is the joint responsibility of the area authority and the
5 State facility as prescribed in the area plan."

1 **1.(g) [12.(g)]**

2 **"§ 122C-261. Affidavit and petition before clerk or magistrate when immediate**
 3 **hospitalization is not necessary; custody order.**

4 (a) Anyone who has knowledge of an individual who ~~is mentally ill~~ has a mental illness
 5 and is either (i) dangerous to self, as defined in G.S. 122C-3(11)a., or dangerous to others, as
 6 defined in G.S. 122C-3(11)b., or (ii) in need of treatment in order to prevent further disability or
 7 deterioration that would predictably result in dangerousness, may appear before a clerk or
 8 assistant or deputy clerk of superior court or a magistrate and execute an affidavit to this effect,
 9 and petition the clerk or magistrate for issuance of an order to take the respondent into custody
 10 for examination by a *commitment examiner*. The affidavit shall include the facts on which the
 11 affiant's opinion is based. If the affiant has knowledge or reasonably believes that the respondent,
 12 in addition to ~~being mentally ill~~, ~~is also mentally retarded~~, having a mental illness, also has an
 13 intellectual disability, this fact shall be stated in the affidavit. Jurisdiction under this subsection
 14 is in the clerk or magistrate in the county where the respondent resides or is found.

15 (b) If the clerk or magistrate finds reasonable grounds to believe that the facts alleged in
 16 the affidavit are true and that the respondent ~~is probably mentally ill~~ probably has a mental illness
 17 and is either (i) dangerous to self, as defined in G.S. 122C-3(11)a., or dangerous to others, as
 18 defined in G.S. 122C-3(11)b., or (ii) in need of treatment in order to prevent further disability or
 19 deterioration that would predictably result in dangerousness, the clerk or magistrate shall issue
 20 an order to a law enforcement officer or any other *designated* person under *G.S. 122C-251(g)* to
 21 take the respondent into custody for examination by a *commitment examiner*. If the clerk or
 22 magistrate finds that, in addition to ~~probably being mentally ill~~, probably having a mental illness,
 23 the respondent ~~is also probably mentally retarded~~, also probably has an intellectual disability, the
 24 clerk or magistrate shall contact the area authority before issuing a custody order and the area
 25 authority shall designate the facility to which the respondent is to be taken for examination by a

1 *commitment examiner*. The clerk or magistrate shall provide the petitioner and the respondent, if
2 present, with specific information regarding the next steps that will occur for the respondent.

3 (c) If the clerk or magistrate issues a custody order, the clerk or magistrate shall also
4 make inquiry in any reliable way as to whether the respondent is indigent within the meaning of
5 G.S. 7A-450. A magistrate shall report the result of this inquiry to the clerk.

6 (d) If the affiant is a *commitment examiner*, all of the following apply:

7 (1) *If the affiant has examined the respondent, the* affiant may execute the
8 affidavit before any official authorized to administer oaths. This affiant is not
9 required to appear before the clerk or magistrate for this purpose. This affiant
10 shall file the affidavit with the clerk or magistrate by delivering to the clerk or
11 magistrate the original *affidavit, by transmitting* a copy in paper form that is
12 printed through the facsimile transmission of the *affidavit, or by delivering the*
13 *affidavit through electronic transmission*. If the affidavit is filed through
14 *electronic or* facsimile transmission, the affiant shall mail the original
15 affidavit no later than five days after the facsimile transmission of the affidavit
16 to the clerk or magistrate to be filed by the clerk or magistrate with the
17 facsimile copy of the affidavit.

18 (2) This affiant's examination shall comply with the requirements of the initial
19 examination as provided in G.S. 122C-263(c). *The affiant shall document in*
20 *writing and file the examination findings with the affidavit delivered to the*
21 *clerk or magistrate in accordance with subdivision (1) of subsection (d) of this*
22 *section.*

23 (3) If the *commitment examiner* recommends outpatient commitment *according*
24 *to the criteria for outpatient commitment set forth in G.S. 122C-263(d)(1)* and
25 the clerk or magistrate finds probable cause to believe that the respondent
26 meets the criteria for outpatient commitment, the clerk or magistrate shall

1 issue an order that a hearing before a district court judge be held to determine
2 whether the respondent will be involuntarily committed. *The commitment*
3 *examiner* shall contact the *LME/MCO* that serves the county where the
4 respondent resides or the *LME/MCO* that coordinated services for the
5 respondent to inform the *LME/MCO* that the respondent has been scheduled
6 for an appointment with an outpatient treatment physician or center. *The*
7 *commitment examiner shall provide the respondent with written notice of any*
8 *scheduled appointment and the name, address, and telephone number of the*
9 *proposed outpatient treatment physician or center.*

10 (4) If the *commitment examiner* recommends inpatient commitment *based on the*
11 *criteria for inpatient commitment set forth in G.S. 122C-263(d)(2)* and the
12 clerk or magistrate finds probable cause to believe that the respondent meets
13 the criteria for inpatient commitment, the clerk or magistrate shall issue an
14 order *to a law enforcement officer to take the respondent into custody* for
15 transportation to a 24-hour facility described in G.S. 122C-252, provided that
16 if a 24-hour facility is not immediately available or appropriate to the
17 respondent's medical condition, the respondent may be temporarily detained
18 under appropriate supervision and, upon further examination, released in
19 accordance with G.S. 122C-263(d)(2).

20 (5) If the affiant is a physician or eligible psychologist at a 24-hour facility
21 described in G.S. 122C-252 who recommends inpatient commitment; the
22 respondent is physically present on the premises of the same 24-hour facility;
23 and the clerk or magistrate finds probable cause to believe that the respondent
24 meets the criteria for inpatient commitment, then the clerk or magistrate may
25 issue an order by facsimile transmission or may issue an electronically
26 scanned order by electronic transmission to the physician or eligible

1 psychologist at the 24-hour facility, or a designee, to take the respondent into
2 custody at the 24-hour facility and proceed according to G.S. 122C-266. Upon
3 receipt of the custody order, the physician or eligible psychologist at the
4 24-hour facility, or a designee, shall immediately (i) notify the respondent that
5 the respondent is not under arrest and has not committed a crime but is being
6 taken into custody to receive treatment and for the respondent's own safety
7 and the safety of others, (ii) take the respondent into custody, and (iii)
8 complete and sign the appropriate portion of the custody order and return the
9 order to the clerk or magistrate either by facsimile transmission or by scanning
10 it and sending it by electronic transmission. The physician or eligible
11 psychologist, or a designee, shall mail the original custody order no later than
12 five days after returning it by means of facsimile or electronic transmission to
13 the clerk or magistrate. The clerk or magistrate shall file the original custody
14 order with the copy of the custody order that was electronically returned.

15 Notwithstanding the provisions of this subdivision, a clerk or magistrate
16 shall not issue a custody order to a physician or eligible psychologist at a
17 24-hour facility, or a designee, if the physician or eligible psychologist, or a
18 designee, has not completed training in proper service and return of service.
19 As used in this subdivision, the term "designee" includes the 24-hour facility's
20 on-site police security personnel.

21 The Department of Health and Human Services shall cooperate and
22 collaborate with the Administrative Office of the Courts and the UNC School
23 of Government to develop protocols to implement this section, including a
24 procedure for notifying clerks and magistrates of the names of the physicians,
25 psychologists, and designees who have completed the training. The Secretary
26 of the Department shall oversee implementation of these protocols.

(6) If the clerk or magistrate finds probable cause to believe that the respondent, in addition to ~~being mentally ill, is also mentally retarded,~~ having a mental illness, also has an intellectual disability, the clerk or magistrate shall contact the area authority before issuing the order and the area authority shall designate the facility to which the respondent is to be transported.

(7) If a *commitment examiner* executes an affidavit for inpatient commitment of a respondent, a physician *who is not the commitment examiner who performed the examination under this section* shall be required to perform the examination required by G.S. 122C-266.

(8) *No commitment examiner, area facility, acute care hospital, general hospital, or other site of first examination, or its officials, staff, employees, or other individuals responsible for the custody, examination, detention, management, supervision, treatment, or release of an individual examined for commitment, who is not grossly negligent, shall be held liable in any civil or criminal action for taking measures prior to the inpatient admission of the individual to a 24-hour facility.*

(e) Except as provided in subdivision (5) of subsection (d) of this section, upon receipt of the custody order of the clerk or magistrate or a custody order issued by the court pursuant to G.S. 15A-1003, a law enforcement *officer*, person designated *under G.S. 122C-251(g), or other person identified* in the order shall take the respondent into custody within 24 hours after the order is signed, and proceed according to G.S. 122C-263. The custody order is valid throughout the State.

(f) Notwithstanding the provisions of this section, in no event shall an individual known or reasonably believed to ~~be mentally retarded~~ have an intellectual disability be admitted to a State psychiatric hospital, except ~~as follows:~~ the following:

(1) Persons described in ~~G.S. 122C-266(b);~~ G.S. 122C-266(b).

(2) Persons admitted pursuant to ~~G.S. 15A-1321;~~G.S. 15A-1321.

(3) Respondents who are so extremely dangerous as to pose a serious threat to the community and to other patients committed to non-State hospital psychiatric inpatient units, as determined by the Director of the Division of Mental Health, Developmental Disabilities, and Substance Abuse Services or ~~his~~the Director's ~~designee, and~~designee.

(4) Respondents who are so gravely disabled by both multiple disorders and medical fragility or multiple disorders and deafness that alternative care is inappropriate, as determined by the Director of the Division of Mental Health, Developmental Disabilities, and Substance Abuse Services or ~~his~~the Director's designee.

Individuals transported to a State facility for ~~the mentally ill~~individuals with mental illnesses who are not admitted by the facility may be transported by *appropriate* law enforcement officers or designated staff of the State facility in State-owned vehicles to an appropriate 24-hour facility that provides psychiatric inpatient care.

No later than 24 hours after the transfer, the responsible professional at the original facility shall notify the petitioner, the clerk of court, and, if consent is granted by the respondent, the next of kin, that the transfer has been completed."

1 **1.(h) [12.(h)]**

2 **"§ 122C-262. Special emergency procedure for individuals needing immediate**
 3 **hospitalization.**

4 (a) Anyone, including a law enforcement officer, who has knowledge of an individual
 5 who is subject to inpatient commitment according to the criteria of *G.S. 122C-263(d)(2)* and who
 6 requires immediate hospitalization to prevent harm to self or others, may transport the individual
 7 directly to an area facility or other place, including a State facility for ~~the mentally ill, individuals~~
 8 with mental illnesses, for examination by a *commitment examiner* in accordance with
 9 G.S. 122C-263(c).

10 (b) Upon examination by the *commitment examiner*, if the individual meets the *inpatient*
 11 *commitment* criteria specified in *G.S. 122C-263(d)(2)* and requires immediate hospitalization to
 12 prevent harm to self or others, the *commitment examiner* shall so certify in writing before any
 13 official authorized to administer oaths. The certificate shall also state the reason that the
 14 individual requires immediate hospitalization. If the *commitment examiner* knows or has reason
 15 to believe that the individual ~~is mentally retarded,~~ has an intellectual disability, the certificate
 16 shall so state.

17 (c) If the *commitment examiner* executes the oath, appearance before a magistrate shall
 18 be waived. The *commitment examiner* shall send a copy of the certificate to the clerk of superior
 19 court by the most reliable and expeditious means. If it cannot be reasonably anticipated that the
 20 clerk will receive the copy within 24 hours, excluding Saturday, Sunday, and holidays, of the
 21 time that it was signed, the physician or eligible psychologist shall also communicate the findings
 22 to the clerk by telephone.

23 (d) Anyone, including a law enforcement officer if necessary, may transport the
 24 individual to a 24-hour facility described in G.S. 122C-252 for examination and treatment
 25 pending a district court hearing. If there is no area 24-hour facility and if the respondent is
 26 indigent and unable to pay for care at a private 24-hour facility, the law enforcement officer or

other designated person providing transportation shall take the respondent to a State facility for ~~the mentally ill individuals with mental illnesses~~ designated by the Commission in accordance with ~~G.S. 143B-147(a)(1)a~~ G.S. 143B-147(a)(1)a. and immediately notify the clerk of superior court of this action. The *commitment examiner's* certificate shall serve as the custody order and the law enforcement officer or other designated person shall provide transportation in accordance with ~~the provisions of~~ G.S. 122C-251. *If a 24-hour facility is not immediately available or appropriate to the respondent's medical condition, the respondent may be temporarily detained under appropriate supervision in accordance with G.S. 122C-263(d)(2) and released in accordance with G.S. 122C-263(d)(2).*

In the event an individual known or reasonably believed to ~~be mentally retarded~~ have an intellectual disability is transported to a State facility for ~~the mentally ill, individuals with mental illnesses~~, in no event shall that individual be admitted to that facility ~~except as follows: unless the individual is in one or more of the following categories:~~

- (1) Persons described in ~~G.S. 122C-266(b);~~ G.S. 122C-266(b).
- (2) Persons admitted pursuant to ~~G.S. 15A-1321;~~ G.S. 15A-1321.
- (3) Respondents who are so extremely dangerous as to pose a serious threat to the community and to other patients committed to non-State hospital psychiatric inpatient units, as determined by the Director of the Division of Mental Health, Developmental Disabilities, and Substance Abuse Services or ~~his~~ the Director's designee; and designee.
- (4) Respondents who are so gravely disabled by both multiple disorders and medical fragility or multiple disorders and deafness that alternative care is inappropriate, as determined by the Director of the Division of Mental Health, Developmental Disabilities, and Substance Abuse Services or ~~his~~ the Director's designee.

1 Individuals transported to a State facility for ~~the mentally ill~~ individuals with mental illnesses
 2 who are not admitted by the facility may be transported by law enforcement officers or designated
 3 staff of the State facility in State-owned vehicles to an appropriate 24-hour facility that provides
 4 psychiatric inpatient care.

5 No later than 24 hours after the transfer, the responsible professional at the original facility
 6 shall notify the petitioner, the clerk of court, and, if consent is granted by the respondent, the next
 7 of kin, that the transfer has been completed.

8 (e) Respondents received at a 24-hour facility under ~~the provisions of~~ this section shall
 9 be examined by a second physician in accordance with G.S. 122C-266. After receipt of
 10 notification that the district court has determined reasonable grounds for the commitment, further
 11 proceedings shall be carried out in the same way as for all other respondents under this Part.

12 (f) *If, upon examination of a respondent presented in accordance with subsection (a) of*
 13 *this section, the commitment examiner finds that the individual meets the criteria for inpatient*
 14 *commitment specified in G.S. 122C-263(d)(2) but does not require immediate hospitalization to*
 15 *prevent harm to self or others, the commitment examiner may petition the clerk or magistrate in*
 16 *accordance with G.S. 122C-261(d) for an order to take the individual into custody for transport*
 17 *to a 24-hour facility described in G.S. 122C-252. If the commitment examiner recommends*
 18 *inpatient commitment and the clerk or magistrate finds probable cause to believe that the*
 19 *respondent meets the criteria for inpatient commitment, the clerk or magistrate shall issue an*
 20 *order for transport to or custody at a 24-hour facility described in* ~~G.S. 122C-252; provided,~~
 21 ~~however, that if~~ ~~G.S. 122C-252. If, however,~~ *a 24-hour facility is not immediately available or*
 22 *appropriate to the respondent's medical condition, the respondent may be temporarily detained*
 23 *under appropriate supervision in accordance with G.S. 122C-263(d)(2) and released in*
 24 *accordance with G.S. 122C-263(d)(2).*

(g) *This section applies exclusively to an individual who is transported to an area facility or other place for an examination by a commitment examiner in accordance with subsection (a) of this section."*

1 **1.(i) [12.(i)]**

2 **"§ 122C-263. Duties of law enforcement officer; first examination.**

3 (a) Without unnecessary delay after assuming custody, the law enforcement officer or
 4 the individual designated or *required* to provide transportation pursuant to G.S. 122C-251(g)
 5 shall take the respondent to a facility or other location identified by the LME/MCO in the
 6 community crisis services plan adopted pursuant to G.S. 122C-202.2 that has an available
 7 commitment examiner and is capable of performing a first examination in conjunction with a
 8 health screening at the same location, unless exigent circumstances require the respondent be
 9 transported to an emergency department

10 indicate appears to be suffering a medical emergency in which case the law enforcement
 11 officer will seek immediate medical assistance for the respondent. If a commitment examiner is
 12 not available, whether on-site, on-call, or via telemedicine, at any facility or location, or if a plan
 13 has not been adopted, the person designated to provide transportation shall take the respondent
 14 to an alternative non-hospital provider or facility-based crisis center for a first examination in
 15 conjunction with a health screening at the same location. If no non-hospital provider or
 16 facility-based crisis center for a first examination in conjunction with a health screening at the
 17 same location for health screening and first examination exists, the person designated to provide
 18 transportation shall take the respondent to a private hospital or clinic, a general hospital, an
 19 acute care hospital, or a State facility for ~~the mentally ill.~~ individuals with mental illnesses. If a
 20 commitment examiner is not immediately available, the respondent may be temporarily detained
 21 in an area facility, if one is available; if an area facility is not available, the respondent may be
 22 detained under appropriate supervision in the respondent's home, in a private hospital or a clinic,
 23 in a general hospital, or in a State facility for ~~the mentally ill.~~ individuals with mental illnesses.
 24 but not in a jail or other penal facility. For the purposes of this section, "non-hospital provider"
 25 means an outpatient provider that provides either behavioral health or medical services.

(a1) A facility or other location to which a respondent is transported under subsection (a) of this section shall provide a health screening of the respondent. The health screening shall be conducted by a commitment examiner or other individual who is determined by the area facility, contracted facility, or other location to be qualified to perform the health screening. The Department ~~will~~shall work with commitment examiner professionals to develop a screening tool for this purpose. The respondent may either be in the physical face-to-face presence of the person conducting the screen or may be examined utilizing telemedicine equipment and procedures. Documentation of the health screening required under this subsection that is completed prior to transporting the patient to any general hospital, acute care hospital, or designated facility shall accompany the patient or otherwise be made available at the time of transportation to the receiving facility.

(b) The examination set forth in subsection (a) of this section is not required *under any of the following circumstances:*

(1) The affiant who obtained the custody order is a *commitment examiner* who recommends inpatient *commitment*.

(2) The custody order states that the respondent was charged with a violent crime, including a crime involving assault with a deadly weapon, and *the respondent* was found incapable of *proceeding*.

(3) Repealed by Session Laws 1987, c. 596, s. 3.

In any of these cases, the *law enforcement officer or person designated under G.S. 122C-251(g)* shall take the respondent directly to a 24-hour facility described in G.S. 122C-252.

(c) The *commitment examiner* described in subsection (a) of this section shall examine the respondent as soon as possible, and in any event within 24 *hours* after the respondent is presented for examination. When the examination set forth in subsection (a) of this section is performed by a *commitment examiner*, the respondent may either be in the physical face-to-face presence of the *commitment examiner* or may be examined utilizing telemedicine equipment and

procedures. A *commitment examiner* who examines a respondent by means of telemedicine must be satisfied to a reasonable medical certainty that the determinations made in accordance with subsection (d) of this section would not be different if the examination had been done in the physical presence of the *commitment examiner*. A *commitment examiner* who is not so satisfied must note that the examination was not satisfactorily accomplished, and the respondent must be taken for a face-to-face examination in the physical presence of a person authorized to perform examinations under this section. As used in this *section*, "telemedicine" is the use of two-way real-time interactive audio and video between places of lesser and greater medical capability or expertise to provide and support health care when distance separates participants who are in different geographical locations. A recipient is referred by one provider to receive the services of another provider via telemedicine.

The examination shall include an assessment of *at least all of the following with respect to the respondent*:

- (1) Current and previous mental illness and ~~mental retardation~~ intellectual disability including, if available, previous treatment *history*.
- (2) Dangerousness to self, as defined in G.S. 122C-3(11)a. or others, as defined in *G.S. 122C-3(11)b*.
- (3) Ability to survive safely without inpatient commitment, including the availability of supervision from family, ~~friends~~ friends, or *others*.
- (4) Capacity to make an informed decision concerning treatment.

(d) After the conclusion of the examination the *commitment examiner* shall make the following determinations:

- (1) If the *commitment examiner* finds *all of the* ~~following~~ following, the commitment examiner shall so show on the examination report and shall recommend outpatient commitment:

- a. The respondent ~~is mentally ill~~ has a mental illness.

- b. The respondent is capable of surviving safely in the community with available supervision from family, friends, or *others*.
- c. Based on the respondent's psychiatric history, the respondent is in need of treatment in order to prevent further disability or deterioration that would predictably result in dangerousness as defined by *G.S. 122C-3(11)*.
- d. The respondent's current mental status or the nature of the respondent's illness limits or negates the respondent's ability to make an informed decision to seek voluntarily or comply with recommended treatment.

~~The commitment examiner shall so show on the examination report and shall recommend outpatient commitment.~~ In addition the *commitment examiner* shall show the name, address, and telephone number of the proposed outpatient treatment physician or *center in accordance with subsection (f) of this section*. The person designated in the order to provide transportation shall return the respondent to the respondent's regular residence or, with the respondent's consent, to the home of a consenting individual located in the originating county, and the respondent shall be released from custody.

- (2) If the *commitment examiner* finds that the respondent ~~is mentally ill~~ has a mental illness and is dangerous to self, as defined in *G.S. 122C-3(11)a.*, or others, as defined in *G.S. 122C-3(11)b.*, the *commitment examiner* shall recommend inpatient commitment, and shall so show on the examination report. If, in addition to mental illness and dangerousness, the *commitment examiner* also finds that the respondent is known or reasonably believed to ~~be mentally retarded~~ have an intellectual disability, this finding shall be shown on the report. *Upon notification*, the law enforcement officer or other designated person shall take the respondent to a 24-hour facility described in

1 G.S. 122C-252 pending a district court hearing. *To the extent feasible, in*
2 *providing the transportation of the respondent, the law enforcement officer*
3 *shall act within six hours of notification. The other designated person shall*
4 *take the respondent to a 24-hour facility described in G.S. 122C-252 pending*
5 *a district court hearing within six hours of notification. If there is no area*
6 *24-hour facility and if the respondent is indigent and unable to pay for care at*
7 *a private 24-hour facility, the law enforcement officer or other designated*
8 *person shall take the respondent to a State facility for ~~the mentally ill~~*
9 *individuals with mental illnesses designated by the Commission in accordance*
10 *with G.S. 143B-147(a)(1)a. for custody, observation, and treatment and*
11 *immediately notify the clerk of superior court of this action. If a 24-hour*
12 *facility is not immediately available or appropriate to the respondent's medical*
13 *condition, the respondent may be temporarily detained under appropriate*
14 *supervision at the site of the first examination. Upon the commitment*
15 *examiner's determination that a 24-hour facility is available and medically*
16 *appropriate, the law enforcement officer or other designated person shall*
17 *transport the respondent after receiving a request for transportation by the*
18 *facility of the commitment examiner. To the extent feasible, in providing the*
19 *transportation of the respondent, the law enforcement officer shall act within*
20 *six hours of notification. The other designated person shall transport the*
21 *respondent without unnecessary delay and within six hours after receiving a*
22 *request for transportation by the facility of the commitment examiner. At any*
23 *time during the respondent's temporary detention under appropriate*
24 *supervision, if a commitment examiner determines that the respondent is no*
25 *longer in need of inpatient commitment, the proceedings shall be terminated*
26 *and the respondent transported and released in accordance with subdivision*

(3) of this subsection. However, if the *commitment examiner* determines that the respondent meets the criteria for outpatient commitment, as defined in subdivision (1) of this subsection, the *commitment examiner* may recommend outpatient commitment, and the respondent shall be transported and released in accordance with subdivision (1) of this subsection. Any decision to terminate the proceedings or to recommend outpatient commitment after an initial recommendation of inpatient commitment shall be documented and reported to the clerk of superior court in accordance with subsection (e) of this section. If the respondent is temporarily detained and a 24-hour facility is not available or medically appropriate seven days after the issuance of the custody order, a *commitment examiner* shall report this fact to the clerk of superior court and the proceedings shall be terminated. Termination of proceedings pursuant to this subdivision shall not prohibit or prevent the initiation of new involuntary commitment proceedings when appropriate. A *commitment examiner* may initiate a new involuntary commitment proceeding prior to the expiration of this seven-day period, as long as the respondent continues to meet applicable criteria. Affidavits filed in support of proceedings terminated pursuant to this subdivision may not be submitted in support of any subsequent petitions for involuntary commitment. If the affiant initiating new commitment proceedings is a *commitment examiner*, the affiant shall conduct a new examination and may not rely upon examinations conducted as part of proceedings terminated pursuant to this subdivision.

In the event an individual known or reasonably believed to be ~~mentally retarded~~ have an intellectual disability is transported to a State facility for ~~the~~ mentally ill, individuals with mental illnesses, in no event shall that individual

be admitted to that facility ~~except as follows:~~ unless the individual is in one or more of the following categories:

- a. Persons described in ~~G.S. 122C-266(b);~~ G.S. 122C-266(b).
- b. Persons admitted pursuant to ~~G.S. 15A-1321;~~ G.S. 15A-1321.
- c. Respondents who are so extremely dangerous as to pose a serious threat to the community and to other patients committed to non-State hospital psychiatric inpatient units, as determined by the Director of the Division of Mental Health, Developmental Disabilities, and Substance Abuse Services or ~~his~~ the Director's designee; and designee.
- d. Respondents who are so gravely disabled by both multiple disorders and medical fragility or multiple disorders and deafness that alternative care is inappropriate, as determined by the Director of the Division of Mental Health, Developmental Disabilities, and Substance Abuse Services or ~~his~~ the Director's designee.

Individuals transported to a State facility for ~~the mentally ill individuals~~ with mental illnesses who are not admitted by the facility may be transported by law enforcement officers or designated staff of the State facility in State-owned vehicles to an appropriate 24-hour facility that provides psychiatric inpatient care.

No later than 24 hours after the transfer, the responsible professional at the original facility shall notify the petitioner, the clerk of court, and, if consent is granted by the respondent, the next of kin, that the transfer has been completed.

- (3) If the *commitment examiner* finds that neither condition described in subdivisions (1) or (2) of this subsection exists, the proceedings shall be terminated. The person designated in the order to provide transportation shall

1 return the respondent to the respondent's regular residence or, with the
2 respondent's consent, to the home of a consenting individual located in the
3 originating county and the respondent shall be released from custody.

4 (e) The findings of the *commitment examiner* and the facts on which they are based shall
5 be in writing in all cases. The *commitment examiner* shall send a copy of the findings to the clerk
6 of superior court by the most reliable and expeditious means. If it cannot be reasonably
7 anticipated that the clerk will receive the copy within 48 hours of the time that it was signed, the
8 physician or eligible psychologist shall also communicate his findings to the clerk by telephone.

9 (f) When outpatient commitment is recommended, the *commitment examiner*, if different
10 from the proposed outpatient treatment physician or center, *shall contact the LME/MCO that*
11 *serves the county where the respondent resides or the LME/MCO that coordinated services for*
12 *the respondent to inform the LME/MCO that the respondent is being recommended for outpatient*
13 *commitment. The commitment examiner shall give the respondent a written notice listing the*
14 *name, address, and telephone number of the proposed outpatient treatment physician or center.*

15 (g) The *commitment examiner*, at the completion of the examination, shall provide the
16 respondent with specific information regarding the next steps that will occur."

1 **1.(j) [12.(j)]**

2 **"§ 122C-271. Disposition.**

3 (a) If *a commitment examiner* has recommended outpatient commitment and the
 4 respondent has been released pending the district court hearing, the court may make one of the
 5 following dispositions:

6 (1) If the court finds by clear, cogent, and convincing evidence that the respondent
 7 ~~is mentally ill; has a mental illness;~~ that ~~he~~the respondent is capable of
 8 surviving safely in the community with available supervision from family,
 9 friends, or others; that based on respondent's treatment history, the respondent
 10 is in need of treatment in order to prevent further disability or deterioration
 11 that would predictably result in dangerousness as defined in G.S. 122C-3(11);
 12 and that the respondent's current mental status or the nature of ~~his~~the
 13 respondent's illness limits or negates ~~his~~the respondent's ability to make an
 14 informed decision to seek voluntarily or comply with recommended
 15 treatment, it may order outpatient commitment for a period not in excess of
 16 90 days.

17 (2) If the court does not find that the respondent meets the criteria of commitment
 18 set out in subdivision (1) of this subsection, the respondent shall be discharged
 19 and the *proposed outpatient physician center* shall be so notified.

20 (3) *Before ordering any outpatient commitment under this subsection, the court*
 21 *shall make findings of fact as to the availability of outpatient treatment from*
 22 *an outpatient treatment physician or center that has agreed to accept the*
 23 *respondent as a client of outpatient treatment services. The court shall show*
 24 *on the order the outpatient treatment physician or center that is to be*
 25 *responsible for the management and supervision of the respondent's*
 26 *outpatient commitment. If the designated outpatient treatment physician or*

center will be monitoring and supervising the respondent's outpatient commitment pursuant to a contract for services with an LME/MCO, the court shall show on the order the identity of the LME/MCO. The clerk of court shall send a copy of the outpatient commitment order to the designated outpatient treatment physician or center and to the respondent client or the legally responsible person. The clerk of court shall also send a copy of the order to that LME/MCO. Copies of outpatient commitment orders sent by the clerk of court to an outpatient treatment center or physician under this section, including orders sent to an LME/MCO, shall be sent by the most reliable and expeditious means, but in no event less than 48 hours after the hearing.

(b) If the respondent has been held in a 24-hour facility pending the district court hearing pursuant to G.S. 122C-268, the court may make one of the following dispositions:

- (1) If the court finds by clear, cogent, and convincing evidence that the respondent ~~is mentally ill; has a mental illness;~~ that the respondent is capable of surviving safely in the community with available supervision from family, friends, or others; that based on respondent's psychiatric history, the respondent is in need of treatment in order to prevent further disability or deterioration that would predictably result in dangerousness as defined by G.S. 122C-3(11); and that the respondent's current mental status or the nature of the respondent's illness limits or negates the respondent's ability to make an informed decision voluntarily to seek or comply with recommended treatment, it may order outpatient commitment for a period not in excess of 90 days. If the commitment proceedings were initiated as the result of the respondent's being charged with a violent crime, including a crime involving an assault with a deadly weapon, and the respondent was found incapable of proceeding, the commitment order shall so show.

- (2) If the court finds by clear, cogent, and convincing evidence that the respondent ~~is mentally ill~~ has a mental illness and is dangerous to self, as defined in G.S. 122C-3(11)a., or others, as defined in G.S. 122C-3(11)b., it may order inpatient commitment at a 24-hour facility described in G.S. 122C-252 for a period not in excess of 90 days. However, no respondent found to ~~be both mentally retarded and mentally ill~~ have both an intellectual disability and a mental illness may be committed to a State, ~~area or private facility for the mentally retarded~~ area, or private facility for individuals with intellectual disabilities. An individual who ~~is mentally ill~~ has a mental illness and is dangerous to self, as defined in G.S. 122C-3(11)a., or others, as defined in G.S. 122C-3(11)b., may also be committed to a combination of inpatient and outpatient commitment at both a 24-hour facility and an outpatient treatment physician or center for a period not in excess of 90 days. If the commitment proceedings were initiated as the result of the respondent's being charged with a violent crime, including a crime involving an assault with a deadly weapon, and the respondent was found incapable of proceeding, the commitment order shall so show. If the court orders inpatient commitment for a respondent who is under an outpatient commitment order, the outpatient commitment is terminated; and the clerk of the superior court of the county where the district court hearing is held shall send a notice of the inpatient commitment to the clerk of superior court where the outpatient commitment was being supervised.
- (3) If the court does not find that the respondent meets either of the commitment criteria set out in subdivisions (1) and (2) of this subsection, the respondent shall be discharged, and the facility in which the respondent was last a client shall be so notified.

1 (4) Before ordering any outpatient commitment, the court shall make findings of
2 fact as to the availability of outpatient *treatment from an outpatient treatment*
3 *physician or center that has agreed to accept the respondent as a client of*
4 *outpatient treatment services.* The court shall also show on the order the
5 outpatient treatment physician or center who is to be responsible for the
6 management and supervision of the respondent's outpatient commitment.
7 When an outpatient commitment order is issued for a respondent held in a
8 24-hour facility, the court may order the respondent held at the facility for no
9 more than 72 hours in order for the facility to notify the designated outpatient
10 treatment physician or center of the treatment needs of the respondent. The
11 clerk of court in the county where the facility is located shall send a copy of
12 the outpatient commitment order to the designated outpatient treatment
13 physician or *center and to the respondent or the legally responsible person. If*
14 *the designated outpatient treatment physician or center shall be monitoring*
15 *and supervising the respondent's outpatient commitment pursuant to a*
16 *contract for services with an LME/MCO, the clerk of court shall ~~how show~~ on*
17 *the order the identity of the LME/MCO. The clerk of court shall send a copy*
18 *of the order to the LME/MCO. Copies of outpatient commitment orders sent*
19 *by the clerk of court to an outpatient treatment center or physician pursuant*
20 *to this subdivision, including orders sent to an LME/MCO, shall be sent by*
21 *the most reliable and expeditious means, but in no event less than 48 hours*
22 *after the hearing.* If the outpatient commitment will be supervised in a county
23 other than the county where the commitment originated, the court shall order
24 venue for further court proceedings to be transferred to the county where the
25 outpatient commitment will be supervised. Upon an order changing venue, the
26 clerk of superior court in the county where the commitment originated shall

1 transfer the file to the clerk of superior court in the county where the outpatient
2 commitment is to be supervised.

3 (c) If the respondent was found not guilty by reason of insanity and has been held in a
4 24-hour facility pending the court hearing held pursuant to G.S. 122C-268.1, the court may make
5 one of the following dispositions:

6 (1) If the court finds that the respondent has not proved by a preponderance of the
7 evidence that ~~he~~the respondent no longer has a mental illness or that ~~he~~the
8 respondent is no longer dangerous to others, it shall order inpatient treatment
9 at a 24-hour facility for a period not to exceed 90 days.

10 (2) If the court finds that the respondent has proven by a preponderance of the
11 evidence that ~~he~~the respondent no longer has a mental illness or that ~~he~~the
12 respondent is no longer dangerous to others, the court shall order the
13 respondent discharged and released."
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1 **2. [2.(b)]**

2 **"§ 7B-2502. Evaluation and treatment of undisciplined and delinquent juveniles.**

3 (a) In any case, the court may order that the juvenile be examined by a physician,
4 psychiatrist, psychologist, or other qualified expert as may be needed for the court to determine
5 the needs of the juvenile. In the case of a juvenile adjudicated delinquent for committing an
6 offense that involves the possession, use, sale, or delivery of alcohol or a controlled substance,
7 the court shall require the juvenile to be tested for the use of controlled substances or alcohol
8 within 30 days of the adjudication. In the case of any juvenile adjudicated delinquent, the court
9 may, if it deems it necessary, require the juvenile to be tested for the use of controlled substances
10 or alcohol. The results of these initial tests conducted pursuant to this subsection shall be used
11 for evaluation and treatment purposes only. In placing a juvenile in out-of-home care under this
12 section, the court shall also consider whether it is in the juvenile's best interest to remain in the
13 juvenile's community of residence.

14 (b) Upon completion of the examination, the court shall conduct a hearing to determine
15 whether the juvenile is in need of medical, surgical, psychiatric, psychological, or other
16 evaluation or treatment and who should pay the cost of the evaluation or treatment. The county
17 manager, or any other person who is designated by the chair of the board of county
18 commissioners, of the county of the juvenile's residence shall be notified of the hearing, and
19 allowed to be heard. If the court finds the juvenile to be in need of medical, surgical, psychiatric,
20 psychological, or other evaluation or treatment, the court shall permit the parent, guardian,
21 custodian, or other responsible persons to arrange for evaluation or treatment. If the parent,
22 guardian, or custodian declines or is unable to make necessary arrangements, the court may order
23 the needed evaluation or treatment, surgery, or care, and the court may order the parent to pay
24 the cost of the care pursuant to Article 27 of this Chapter. If the court finds the parent is unable
25 to pay the cost of evaluation or treatment, the court shall order the county to arrange for
26 evaluation or treatment of the juvenile and to pay for the cost of the evaluation or treatment. The

1 county department of social services shall recommend the facility that will provide the juvenile
2 with evaluation or treatment.

3 (c) If the court believes, or if there is evidence presented to the effect that the juvenile is
4 ~~mentally ill or is developmentally disabled,~~ has a mental illness or a developmental disability,
5 the court shall refer the juvenile to the area mental health, developmental disabilities, and
6 substance abuse services director for appropriate action. A juvenile shall not be committed
7 directly to a State hospital or ~~mental retardation center;~~ State-operated developmental center, and
8 orders purporting to commit a juvenile directly to a State hospital or ~~mental retardation center~~
9 State-operated developmental center, except for an examination to determine capacity to ~~proceed~~
10 proceed, ~~shall be are~~ void and of no effect. The area mental health, developmental disabilities,
11 and substance abuse director ~~shall be is~~ responsible for arranging an interdisciplinary evaluation
12 of the juvenile and mobilizing resources to meet the juvenile's needs. If institutionalization is
13 determined to be the best service for the juvenile, admission shall be with the voluntary consent
14 of the parent, guardian, or custodian. If the parent, guardian, or custodian refuses to consent to a
15 ~~mental hospital or retardation center admission after such institutionalization~~ institutionalization
16 after it is recommended by the area mental health, developmental disabilities, and substance
17 abuse director, the signature and consent of the court may be substituted for that purpose. In all
18 cases in which a regional mental hospital refuses admission to a juvenile referred for admission
19 by the court and an area mental health, developmental disabilities, and substance abuse director
20 or discharges a juvenile previously admitted on court referral prior to completion of the juvenile's
21 treatment, the hospital shall submit to the court a written report setting out the reasons for denial
22 of admission or discharge and setting out the juvenile's diagnosis, indications of mental illness,
23 indications of need for treatment, and a statement as to the location of any facility known to have
24 a treatment program for the juvenile in question."
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3.(a) [4.(e)] – Unit 3 is Effective January 1, 2020

"§ 14-32.2. Patient abuse and neglect; ~~punishments~~; punishments; definitions.

(a) It ~~shall be~~ is unlawful for any person to physically abuse a patient of a health care facility or a resident of a residential care facility, when the abuse results in death or bodily injury.

(b) Unless the conduct is prohibited by some other provision of law providing for greater ~~punishment~~; punishment, a violation of subsection (a) of this section is the following:

(1) ~~A violation of subsection (a) above is a~~ A Class C felony where intentional conduct proximately causes the death of the patient or ~~resident~~; resident.

(2) ~~A violation of subsection (a) above is a~~ A Class E felony where culpably negligent conduct proximately causes the death of the patient or ~~resident~~; resident.

(3) ~~A violation of subsection (a) above is a~~ A Class F felony where such conduct is willful or culpably negligent and proximately causes serious bodily injury to the patient or ~~resident~~; resident.

(4) ~~A violation of subsection (a) is a~~ A Class H felony where such conduct evinces a pattern of conduct and the conduct is willful or culpably negligent and proximately causes bodily injury to a patient or resident.

(c) ~~"Health Care Facility" shall include hospitals, skilled nursing facilities, intermediate care facilities, intermediate care facilities for the mentally retarded, psychiatric facilities, rehabilitation facilities, kidney disease treatment centers, home health agencies, ambulatory surgical facilities, and any other health care related facility whether publicly or privately owned.~~

~~(c1) "Residential Care Facility" shall include adult care homes and any other residential care related facility whether publicly or privately owned.~~

(d) ~~"Person" shall include any natural person, association, corporation, partnership, or other individual or entity.~~

(e) ~~"Culpably negligent" shall mean conduct of a willful, gross and flagrant character, evincing reckless disregard of human life.~~

(e1) ~~"Abuse" means the willful or culpably negligent infliction of physical injury or the willful or culpably negligent violation of any law designed for the health or welfare of a patient or resident.~~

(f) Any defense which may arise under G.S. 90-321(h) or G.S. 90-322(d) pursuant to compliance with Article 23 of Chapter 90 of the General Statutes ~~shall be~~ is fully applicable to any prosecution initiated under this section.

(g) Criminal process for a violation of this section may be issued only upon the request of a ~~District Attorney~~ district attorney.

(h) The provisions of this section ~~shall~~ do not supersede any other applicable statutory or common law offenses.

(i) The following definitions apply in this section:

(1) Abuse. – The willful or culpably negligent infliction of physical injury or the willful or culpably negligent violation of any law designed for the health or welfare of a patient or resident.

(2) Culpably negligent. – Conduct of a willful, gross, and flagrant character, evincing reckless disregard of human life.

(3) Health care facility. – Includes hospitals, skilled nursing facilities, intermediate care facilities, intermediate care facilities for individuals with intellectual disabilities, psychiatric facilities, rehabilitation facilities, kidney disease treatment centers, home health agencies, ambulatory surgical facilities, and any other health care related facility whether publicly or privately owned.

(4) Person. – Includes any individual, association, corporation, partnership, or other entity.

(5) Residential care facility. – Includes adult care homes and any other residential
care related facility whether publicly or privately owned."

1 **3.(b) [4.(f)]**

2 **"§ 90-106. Prescriptions and labeling.**

3 (a) ~~No Schedule II substance shall be dispensed pursuant to a written or electronic~~
 4 ~~prescription more than six months after the date it was prescribed.~~Definitions. – As used in this
 5 section, the following terms have the following meanings:

6 (1) Acute pain. – Pain, whether resulting from disease, accident, intentional
 7 trauma, or other cause, that the practitioner reasonably expects to last for three
 8 months or less. The term does not include chronic pain or pain being treated
 9 as part of cancer care, hospice care, palliative care, or medication-assisted
 10 treatment for a substance use disorder. *The term does not include pain being*
 11 *treated as part of cancer care, hospice care, or palliative care provided by a*
 12 *person licensed to practice veterinary medicine pursuant to Article 11 of this*
 13 *Chapter.*

14 (2) Chronic pain. – Pain that typically lasts for longer than three months or that
 15 lasts beyond the time of normal tissue healing.

16 (3) Surgical procedure. – A procedure that is performed for the purpose of
 17 structurally altering the human body by incision or destruction of tissues as
 18 part of the practice of *medicine or a procedure that is performed for the*
 19 *purpose of structurally altering the animal body by incision or destruction of*
 20 *tissues as part of the practice of veterinary medicine.* This term includes the
 21 diagnostic or therapeutic treatment of conditions or disease processes by use
 22 of instruments such as lasers, ultrasound, ionizing, radiation, scalpels, probes,
 23 or needles that cause localized alteration or transportation of live human
 24 tissue, or live animal tissue in the practice of veterinary medicine, by cutting,
 25 burning, vaporizing, freezing, suturing, probing, or manipulating by closed

reduction for major dislocations and fractures, or otherwise altering by any mechanical, thermal, light-based, electromagnetic, or chemical means.

(a1) Electronic Prescription Required; Exceptions. – Unless otherwise exempted by this subsection, a practitioner shall electronically prescribe all targeted controlled substances. This subsection does not apply to prescriptions for targeted controlled substances issued by any of the following:

(1) A practitioner, other than a pharmacist, who dispenses directly to an ultimate user.

(2) A practitioner who orders a controlled substance to be administered in a hospital, nursing home, hospice facility, outpatient dialysis facility, or residential care facility, as defined in ~~G.S. 14-32.2~~G.S. 14-32.2(i).

(3) A practitioner who experiences temporary technological or electrical failure or other extenuating circumstance that prevents the prescription from being transmitted electronically; ~~provided, however, that the practitioner documents electronically. The practitioner, however, shall document~~ the reason for this exception in the patient's medical record.

(4) A practitioner who writes a prescription to be dispensed by a pharmacy located on federal property; ~~provided, however, that the practitioner documents property. The practitioner, however, shall document~~ the reason for this exception in the patient's medical record.

(5) A person licensed to practice veterinary medicine pursuant to Article 11 of ~~Chapter 90 of the General Statutes~~this Chapter. *A person licensed to practice veterinary medicine pursuant to Article 11 of ~~Chapter 90 of the General Statutes~~this Chapter may continue to prescribe targeted controlled substances from valid written, oral, or facsimile prescriptions that are otherwise consistent with applicable laws.*

(a2) Verification by Dispenser Not Required. – A dispenser is not required to verify that a practitioner properly falls under one of the exceptions specified in subsection (a1) of this section prior to dispensing a targeted controlled substance. A dispenser may continue to dispense targeted controlled substances from valid written, oral, or facsimile prescriptions that are otherwise consistent with applicable laws.

(a3) Limitation on Prescriptions Upon Initial Consultation for Acute Pain. – A practitioner ~~may~~ shall not prescribe more than a five-day supply of any targeted controlled substance upon the initial consultation and treatment of a patient for acute pain, unless the prescription is for post-operative acute pain relief for use immediately following a surgical procedure. A practitioner shall not prescribe more than a seven-day supply of any targeted controlled substance for post-operative acute pain relief immediately following a surgical procedure. Upon any subsequent consultation for the same pain, the practitioner may issue any appropriate renewal, refill, or new prescription for a targeted controlled substance. This subsection does not apply to prescriptions for controlled substances issued by a practitioner who orders a controlled substance to be wholly administered in a hospital, nursing home licensed under Chapter 131E of the General Statutes, hospice facility, or residential care facility, as defined in ~~G.S. 14-32.2(e1); G.S. 14-32.2(i).~~ *This subsection does not apply to prescriptions for controlled substances issued by a practitioner who orders a controlled substance to be wholly administered in an emergency facility, veterinary hospital, or animal hospital, as defined in G.S. 90-181.1. A practitioner who acts in accordance with the limitation on prescriptions as set forth in this subsection shall be is immune from any civil liability or disciplinary action from the practitioner's occupational licensing agency for acting in accordance with this subsection.*

~~(a4) Definitions. As used in this subsection, the following terms have the following meanings:~~

~~(1) Acute pain. Pain, whether resulting from disease, accident, intentional trauma, or other cause, that the practitioner reasonably expects to last for three~~

~~months or less. The term does not include chronic pain or pain being treated as part of cancer care, hospice care, palliative care, or medication-assisted treatment for substance use disorder. The term does not include pain being treated as part of cancer care, hospice care, or palliative care provided by a person licensed to practice veterinary medicine pursuant to Article 11 of Chapter 90 of the General Statutes.~~

~~(2) Chronic pain. Pain that typically lasts for longer than three months or that lasts beyond the time of normal tissue healing.~~

~~(3) Surgical procedure. A procedure that is performed for the purpose of structurally altering the human body by incision or destruction of tissues as part of the practice of medicine or a procedure that is performed for the purpose of structurally altering the animal body by incision or destruction of tissues as part of the practice of veterinary medicine. This term includes the diagnostic or therapeutic treatment of conditions or disease processes by use of instruments such as lasers, ultrasound, ionizing radiation, scalpels, probes, or needles that cause localized alteration or transportation of live human tissue, or live animal tissue in the practice of veterinary medicine, by cutting, burning, vaporizing, freezing, suturing, probing, or manipulating by closed reduction for major dislocations and fractures, or otherwise altering by any mechanical, thermal, light-based, electromagnetic, or chemical means.~~

(a5) Dispenser Immunity. – A dispenser ~~shall be~~ is immune from any civil or criminal liability or disciplinary action from the Board of Pharmacy for dispensing a prescription written by a prescriber in violation of this section.

(b) Dispensing of Schedule II Controlled Substances. – No Schedule II substance shall be dispensed pursuant to a written or electronic prescription more than six months after the date it was prescribed. In emergency situations, as defined by rule of the Commission, Schedule II

~~drugs-controlled substances~~ may be dispensed upon oral prescription of a practitioner, reduced promptly to writing and filed by the dispensing agent. Prescriptions shall be retained in conformity with the requirements of G.S. 90-104. No prescription for a Schedule II substance ~~may-shall~~ be refilled.

(c) Dispensing of Schedule III and IV Controlled Substances. - Except when dispensed directly by a practitioner, other than a pharmacist, to an ultimate user, no controlled substance included in Schedules III or IV, except paregoric, U.S.P., as provided in ~~G.S. 90-91(e)1, may~~ G.S. 90-91(e)1., shall be dispensed without a prescription, and oral prescriptions shall be promptly reduced to writing and filed with the dispensing agent. ~~Such-The~~ prescription ~~may-shall~~ not be filled or refilled more than six months after the date ~~thereof-of the prescription~~ or be refilled more than five times after the date of the prescription.

(d) Dispensing of Schedule V Controlled Substances. - No controlled substance included in Schedule V of this Article or paregoric, U.S.P., ~~may-shall~~ be distributed or dispensed other than for a medical purpose.

(e) Dispensing of Schedule VI Controlled Substances. - No controlled substance included in Schedule VI of this Article ~~may-shall~~ be distributed or dispensed other than for scientific or research purposes by persons registered under, or permitted by, this Article to engage in scientific or research projects.

(f) Labeling Requirements. - No controlled substance shall be dispensed or distributed in this State unless ~~such-the~~ substance ~~shall-be-is~~ in a container clearly labeled in accord with regulations lawfully adopted and published by the federal government or the Commission.

(g) Copies. - When a copy of a prescription for a controlled substance under this Article is given as required by G.S. 90-70, ~~such-the~~ copy shall be plainly marked: "Copy – for information only." Copies of prescriptions for controlled substances shall not be filled or refilled.

1 (h) Fill Date. - A pharmacist dispensing a controlled substance under this Article shall
2 enter the date of dispensing on the prescription order pursuant to which ~~such the~~ controlled
3 substance was dispensed.

4 (i) Distribution of Complimentary Samples. - A manufacturer's sales representative may
5 distribute a controlled substance as a complimentary sample only upon the written request of a
6 practitioner. ~~Such The~~ request must be made on each distribution and must contain the names
7 and addresses of the supplier and the requester and the name and quantity of the specific
8 controlled substance requested. The manufacturer shall maintain a record of each ~~such~~ request
9 for a period of two years."

10 *[Staff Note: This amendment is a conforming amendment to the renumbering of the definitions*
11 *in G.S. 14-32.2. This draft moves language from subsection (a) to subsection (b), moves language*
12 *from subsection (a4) to subsection (a), and adds subsection catchlines, upon the suggestion of a*
13 *colleague in the Bill Drafting Division who drafts in this area.]*
14

1 **4.(a) [8.(a)]**

2 **"§ 58-55-35. Facilities, services, and conditions defined.**

3 (a) Whenever long-term care insurance provides coverage for the facilities, services, or
 4 physical or mental conditions listed below, unless otherwise defined in the policy and certificate,
 5 and approved by the Commissioner, ~~such the~~ facilities, services, or conditions ~~are defined as~~
 6 ~~follows:~~have the following definitions:

7 (1) ~~"Adult care home" shall be defined in accordance with the terms of Adult care~~
 8 ~~home. – As defined in G.S. 131D-2.1(3).~~

9 (1a) ~~"Adult day care program" shall be defined in accordance with the provisions~~
 10 ~~of Adult day care program. – As defined in G.S. 131D-6(b).~~

11 (2) ~~"Chore" services include Chore services. – Include the performance of tasks~~
 12 ~~incidental to activities of daily living that do not require the services of a~~
 13 ~~trained homemaker or other specialist. Such The services are provided to~~
 14 ~~enable individuals to remain in their own homes and may include such~~
 15 ~~services as: assistance in meeting basic care needs such as meal preparation;~~
 16 ~~shopping for food and other necessities; running necessary errands; providing~~
 17 ~~transportation to essential service facilities; care and cleaning of the house,~~
 18 ~~grounds, clothing, and linens.~~

19 (3) ~~"Combination home" shall be defined in accordance with the terms of~~
 20 ~~Combination home. – As defined in G.S. 131E-101(1a).~~

21 (4) Repealed by Session Laws 1995, c. 535, s. 3.

22 (5) ~~"Family care home" shall be defined in accordance with the terms of Family~~
 23 ~~care home. – As defined in G.S. 131D-2.1(9).~~

24 (6) Renumbered.

25 (7) Repealed by Session Laws 1995, c. 535, s. 3.

- (8) ~~"Home health services"~~ shall be defined in accordance with the terms of Home care services. – As defined in G.S. 131E-136(3).
- (9) ~~"Homemaker services"~~ means supportive Homemaker services. – Supportive services provided by qualified para-professionals who are trained, equipped, assigned, and supervised by professionals within the agency to help maintain, strengthen, and safeguard the care of the elderly in their own homes. These standards must, at a minimum, meet standards established by the North Carolina Division of Social Services and may include: ~~Providing providing~~ assistance in management of household budgets; planning nutritious meals; purchasing and preparing foods; housekeeping duties; consumer education; and basic personal and health care.
- (10) ~~"Hospice"~~ shall be defined in accordance with the terms of Hospice. – As defined in G.S. 131E-176(13a).
- (11) ~~"Intermediate care facility for the mentally retarded"~~ shall be defined in accordance with the terms of Intermediate care facility for individuals with intellectual disabilities. – As defined in G.S. 131E-176(14a).
- (12) ~~"Nursing home"~~ shall be defined in accordance with the terms of Nursing home. – As defined in G.S. 131E-101(6).
- (13) ~~"Respite care, institutional"~~ means provision Respite care, institutional. – Provision of temporary support to the primary caregiver of the ~~aged, disabled, or handicapped~~ aged individual or individual with a disability by taking over the tasks of that person for a limited period of time. The insured receives care for the respite period in an institutional setting, such as a nursing home, family care home, rest home, or other appropriate setting.
- (14) ~~"Respite care, non-institutional"~~ means provision Respite care, non-institutional. – Provision of temporary support to the primary caregiver

of the ~~aged, disabled, or handicapped~~ aged individual or individual with a disability by taking over the tasks of that person for a limited period of time in the home of the insured or other appropriate community location.

(15) ~~"Skilled Nursing Facility" shall be defined in accordance with the terms of G.S. 135-40.1(18).~~ Skilled nursing facility. – An institution licensed under applicable State laws and primarily engaged in providing to inpatients, under the supervision of a doctor and a registered professional nurse, skilled nursing care and related services on a 24-hour basis, and rehabilitative services.

(16) ~~"Supervised living facility for developmentally disabled adults" means a Supervised living facility for adults with developmental disabilities. – A residential facility, as defined in G.S. 122C-3(14), which that has two to nine developmentally disabled adult residents.~~ adult residents with developmental disabilities.

(b) Whenever long-term care insurance provides coverage for organic brain disorder syndrome, progressive dementing illness, or primary degenerative dementia, such phrases shall be interpreted to include Alzheimer's Disease. ~~Clinical~~ A clinical diagnosis of "organic brain disorder ~~syndrome~~", ~~syndrome,~~ "progressive dementing ~~illness~~", ~~and illness,~~ or "primary degenerative dementia" must be accepted as evidence that ~~such conditions exist~~ such a condition exists in an insured ~~when if~~ a pathological diagnosis cannot be ~~made; provided that such made,~~ the medical evidence substantially documents the diagnosis of the ~~condition~~ condition, and the insured received treatment for ~~such the~~ the condition.

(c) All long-term care insurance policies must be filed with and approved by the Commissioner before they can be used in this State and are subject to the provisions of Article 38 of this Chapter."

1 **4.(b) [8.(b)]**

2 **"§ 131E-154.2. Definitions.**

3 ~~As used in this Part, unless the context clearly implies otherwise:~~The following definitions
 4 apply in this Part:

5 (1) ~~"Commission" means the~~Commission. – ~~The~~ North Carolina Medical Care
 6 Commission.

7 (2) ~~"Department" means the~~Department. – ~~The~~ Department of Health and Human
 8 Services.

9 (3) ~~"Health Care Facility" means a~~Health care facility. – A ~~hospital, hospital,~~
 10 psychiatric facility; rehabilitation facility; long-term care facility; home health
 11 agency; intermediate care facility for ~~the mentally retarded;~~ individuals with
 12 intellectual disabilities; chemical dependency treatment facility; and
 13 ambulatory surgical facility.

14 (4) ~~"Nursing pool" means any~~Nursing pool. – ~~Any~~ person, firm, corporation,
 15 partnership, or association engaged for hire in the business of providing or
 16 procuring temporary employment in health care facilities for nursing
 17 personnel, including nurses, nursing assistants, nurses aides, and orderlies.
 18 "Nursing pool" does not include an individual who engages solely in
 19 providing ~~his the individual's~~ own services on a temporary basis to health care
 20 facilities.

21 (5) ~~"Trauma" means acute~~Trauma. – Acute physical injury to the human body
 22 that is judged, by the use of standardized field triage criteria (anatomic,
 23 physiologic, or mechanism of injury), to create a significant risk of mortality
 24 or major morbidity."

1 **4.(c) [8.(c)]**

2 **"§ 131E-176. Definitions.**

3 ~~As used in this Article, unless the context clearly requires otherwise, the following terms~~
 4 ~~have the meanings specified.~~The following definitions apply in this Article:

5 (1) ~~"Adult care home" means a~~ Adult care home. – A facility with seven or more
 6 beds licensed under Part 1 of Article 1 of Chapter 131D of the General Statutes
 7 or ~~Chapter 131E of the General Statutes under this Chapter~~ that provides
 8 residential care for aged ~~or disabled persons~~ individuals or individuals with
 9 disabilities whose principal need is a home which provides the supervision
 10 and personal care appropriate to their age and disability and for whom medical
 11 care is only occasional or incidental.

12 (1a) **(See note)** ~~"Air ambulance" means aircraft~~ Air ambulance. – Aircraft used to
 13 provide air transport of sick or injured persons between destinations within
 14 the State.

15 (1b) ~~"Ambulatory surgical facility" means a~~ Ambulatory surgical facility. – A
 16 facility designed for the provision of a specialty ambulatory surgical program
 17 or a multispecialty ambulatory surgical program. An ambulatory surgical
 18 facility serves patients who require local, ~~regional~~ regional, or general
 19 anesthesia and a period of post-operative observation. An ambulatory surgical
 20 facility may only admit patients for a period of less than 24 hours and must
 21 provide at least one designated operating room or gastrointestinal endoscopy
 22 room, as defined in Article 5 Part 1 and Article 6, Part 4 of this Chapter, room
 23 and at least one designated recovery room, have available the necessary
 24 equipment and trained personnel to handle emergencies, provide adequate
 25 quality assurance and assessment by an evaluation and review committee, and
 26 maintain adequate medical records for each patient. An ambulatory surgical

1 facility may be operated as a part of a physician or dentist's office, provided
 2 the facility is licensed under ~~G.S. Chapter 131E, Article 6, Part D, Part 4 of~~
 3 Article 6 of this Chapter, but the performance of incidental, limited
 4 ambulatory surgical procedures which do not constitute an ambulatory
 5 surgical program ~~as defined in subdivision (1c) of this section~~ and which are
 6 performed in a physician's or dentist's office does not make that office an
 7 ambulatory surgical facility.

8 (1c) ~~"Ambulatory surgical program" means a~~ Ambulatory surgical program. – A
 9 formal program for providing on a same-day basis those surgical procedures
 10 which require local, ~~regional-regional,~~ or general anesthesia and a period of
 11 post-operative observation to patients whose admission for more than 24
 12 hours is determined, prior to surgery or gastrointestinal endoscopy, to be
 13 medically unnecessary.

14 (2) ~~"Bed capacity" means space~~ Bed capacity. – Space used exclusively for
 15 inpatient care, including space designed or remodeled for licensed inpatient
 16 beds even though temporarily not used for such purposes. The number of beds
 17 to be counted in any patient room shall be the maximum number for which
 18 adequate square footage is provided as established by rules of the Department
 19 except that single beds in single rooms are counted even if the room contains
 20 inadequate square footage. The term "bed capacity" also refers to the number
 21 of dialysis stations in kidney disease treatment centers, including freestanding
 22 dialysis units.

23 (2a) ~~"Bone marrow transplantation services" means the~~ Bone marrow
 24 transplantation services. – The process of infusing bone marrow into persons
 25 with diseases to stimulate the production of blood cells.

- 1 (2b) ~~"Burn intensive care services" means services~~ Burn intensive care services. –
 2 Services provided in a unit designed to care for patients who have been
 3 severely burned.
- 4 (2c) ~~"Campus" means the Campus. – The~~ adjacent grounds and buildings, or
 5 grounds and buildings not separated by more than a public right-of-way, of a
 6 health service facility and related health care entities.
- 7 (2d) ~~"Capital expenditure" means an~~ Capital expenditure. – An expenditure for a
 8 project, including but not limited to the cost of construction, engineering, and
 9 equipment which under generally accepted accounting principles is not
 10 properly chargeable as an expense of operation and maintenance. Capital
 11 expenditure includes, in addition, the fair market value of an acquisition made
 12 by donation, lease, or comparable arrangement by which a person obtains
 13 equipment, the expenditure for which would have been considered a capital
 14 expenditure under this Article if the person had acquired it by purchase.
- 15 (2e) Repealed by Session Laws 2005-325, s. 1, effective for hospices and hospice
 16 offices December 31, 2005.
- 17 (2f) ~~"Cardiac catheterization equipment" means the~~ Cardiac catheterization
 18 equipment. – The equipment used to provide cardiac catheterization services.
- 19 (2g) ~~"Cardiac catheterization services" means those~~ Cardiac catheterization
 20 services. – Those procedures, excluding pulmonary angiography procedures,
 21 in which a catheter is introduced into a vein or artery and threaded through the
 22 circulatory system into the heart specifically to diagnose abnormalities in the
 23 motion, contraction, and blood flow of the moving heart or to perform surgical
 24 therapeutic interventions to restore, repair, or reconstruct the coronary blood
 25 vessels of the heart.

(3) ~~"Certificate of need" means a~~ Certificate of need. – A written order which affords the person so designated as the legal proponent of the proposed project the opportunity to proceed with the development of ~~such the~~ project.

(4) Repealed by Session Laws 1993, c. 7, s. 2.

(5) ~~"Change in bed capacity" means~~ Change in bed capacity. – Any of the following:

a. ~~(i) any~~ Any relocation of health service facility beds, or dialysis stations from one licensed facility or campus to ~~another, or another.~~

b. ~~(ii) any~~ Any redistribution of health service facility bed capacity among the categories of health service facility ~~bed as defined in~~ G.S. 131E 176(9c), or bed.

c. ~~(iii) any~~ Any increase in the number of health service facility beds, or dialysis stations in kidney disease treatment centers, including freestanding dialysis units.

(5a) ~~"Chemical dependency treatment facility" means a~~ Chemical dependency treatment facility. – A public or private facility, or unit in a facility, which is engaged in providing 24-hour a day treatment for chemical dependency or substance abuse. This treatment may include detoxification, administration of a therapeutic regimen for the treatment of ~~chemically dependent or substance abusing persons~~ individuals with chemical dependence or substance use disorders, and related services. The facility or unit may ~~be~~ be any of the following:

a. A unit within a general hospital or an attached or freestanding unit of a general hospital licensed under ~~Article 5, Chapter 131E, of the General Statutes,~~ Article 5 of this Chapter.

b. A unit within a psychiatric hospital or an attached or freestanding unit of a psychiatric hospital licensed under ~~Article 1A of General Statutes Chapter 122 or Article 2 of General Statutes Chapter 122C,~~Article 2 of Chapter 122C of the General Statutes.

c. A freestanding facility specializing in treatment of ~~persons who are substance abusers or chemically dependent licensed under Article 1A of General Statutes Chapter 122 or Article 2 of General Statutes Chapter 122C; and~~ individuals with chemical dependence or substance use disorders that is licensed under Article 2 of Chapter 122C of the General Statutes. The facility may be identified as "chemical dependency, substance abuse, alcoholism, or drug abuse treatment units," "residential chemical dependency, substance ~~abuse,~~use disorder, alcoholism or drug abuse facilities," or by other names if the purpose is to provide treatment of ~~chemically dependent or substance abusing persons, but shall~~ individuals with chemical dependence or substance use disorders. The term, however, does not include social setting detoxification facilities, medical detoxification facilities, halfway ~~houses~~houses, or recovery farms.

(5b) ~~"Chemical dependency treatment beds" means beds~~ Chemical dependency treatment beds. – Beds that are licensed for the inpatient treatment of chemical dependency. Residential treatment beds for the treatment of chemical dependency or substance abuse are chemical dependency treatment beds. Chemical dependency treatment beds ~~shall do not~~ include beds licensed for detoxification.

(6) ~~"Department" means the~~ Department. – The North Carolina Department of Health and Human Services.

(7) ~~To "develop" when~~ Develop. – When used in connection with health services, means to undertake those activities which will result in the offering of institutional health service or the incurring of a financial obligation in relation to the offering of such a service.

(7a) ~~"Diagnostic center" means a~~ Diagnostic center. – A freestanding facility, program, or provider, including but not limited to, physicians' offices, clinical laboratories, radiology centers, and mobile diagnostic programs, in which the total cost of all the medical diagnostic equipment utilized by the facility which cost ten thousand dollars (\$10,000) or more exceeds five hundred thousand dollars (\$500,000). In determining whether the medical diagnostic equipment in a diagnostic center costs more than five hundred thousand dollars (\$500,000), the costs of the equipment, studies, surveys, designs, plans, working drawings, specifications, construction, installation, and other activities essential to acquiring and making operational the equipment shall be included. The capital expenditure for the equipment shall be deemed to be the fair market value of the equipment or the cost of the equipment, whichever is greater.

(7b) ~~"Expedited review" means the~~ Expedited review. – The status given to an application's review process when the applicant petitions for the review and the Department approves the request based on findings that all of the following are met:

- a. The review is not competitive.
- b. The proposed capital expenditure is less than five million dollars (\$5,000,000).
- c. A request for a public hearing is not received within the time frame defined in G.S. 131E-185.

d. The agency has not determined that a public hearing is in the public interest.

(7c) ~~"Gamma knife" means equipment~~ Gamma knife. – Equipment which emits photon beams from a stationary radioactive cobalt source to treat lesions deep within the brain and is one type of stereotactic radiosurgery.

(7d) ~~"Gastrointestinal endoscopy room" means a~~ Gastrointestinal endoscopy room.
– A room used for the performance of procedures that require the insertion of a flexible endoscope into a gastrointestinal orifice to visualize the gastrointestinal lining and adjacent organs for diagnostic or therapeutic purposes.

(8), (9) Repealed by Session Laws 1987, c. 511, s. 1.

(9a) ~~"Health service" means an~~ Health service. – An organized, interrelated activity that is medical, diagnostic, therapeutic, and/or rehabilitative activity
rehabilitative, or a combination thereof and that is integral to the prevention of disease or the clinical management of a sick, injured, or disabled person.
an individual who is sick or injured or who has a disability. "Health service" does not include administrative and other activities that are not integral to clinical management.

(9b) ~~"Health service facility" means a~~ Health service facility. – A hospital; long-term care hospital; psychiatric facility; rehabilitation facility; nursing home facility; adult care home; kidney disease treatment center, including freestanding hemodialysis units; intermediate care facility for the mentally retarded; individuals with intellectual disabilities; home health agency office; chemical dependency treatment facility; diagnostic center; hospice office, hospice inpatient facility, hospice residential care facility; and ambulatory surgical facility.

(9c) ~~"Health service facility bed" means a~~ Health service facility bed. – A bed licensed for use in a health service facility in the categories of (i) acute care beds; (ii) psychiatric beds; (iii) rehabilitation beds; (iv) nursing home beds; (v) intermediate care beds for ~~the mentally retarded; individuals with~~ intellectual disabilities; (vi) chemical dependency treatment beds; (vii) hospice inpatient facility beds; (viii) hospice residential care facility beds; (ix) adult care home beds; and (x) long-term care hospital beds.

(10) ~~"Health maintenance organization (HMO)" means a~~ Health maintenance organization (HMO). – A public or private organization which has received its certificate of authority under Article 67 of Chapter 58 of the General Statutes and which either is a qualified health maintenance organization under Section 1310(d) of the Public Health Service Act ~~or~~ or satisfies all of the following:

- a. Provides or otherwise makes available to enrolled participants health care services, including at least the following basic health care services: usual physician services, hospitalization, laboratory, X ray, emergency and preventive services, and out-of-area ~~coverage;~~ coverage.
- b. Is compensated, except for copayments, for the provision of the basic health care services listed ~~above~~ in sub-subdivision a. of this subdivision to enrolled participants by a payment which is paid on a periodic basis without regard to the date the health care services are provided and which is fixed without regard to the frequency, extent, or kind of health service actually ~~provided; and~~ provided.
- c. Provides physicians' services primarily (i) directly through physicians who are either employees or partners of such organizations, or (ii)

through arrangements with individual physicians or one or more groups of physicians organized on a group practice or individual practice basis.

(10a) ~~"Heart lung bypass machine" means the~~ Heart-lung bypass machine. – The equipment used to perform extra-corporeal circulation and oxygenation during surgical procedures.

(11) Repealed by Session Laws 1991, c. 692, s. 1.

(12) ~~"Home health agency" means a~~ Home health agency. – A private organization or public agency, whether owned or operated by one or more persons or legal entities, which furnishes or offers to furnish home health services.

(12a) ~~"Home health services" means items~~ Home health services. – Items and

services furnished to an individual by a home health agency, or by others

under arrangements with such others made by the agency, on a visiting basis,

and except for ~~paragraph~~ sub-subdivision e. of this subdivision, in a place of

temporary or permanent residence used as the individual's home as follows:

a. Part-time or intermittent nursing care provided by or under the supervision of a registered ~~nurse;~~ nurse.

b. Physical, ~~occupational~~ occupational, or speech ~~therapy;~~ therapy.

c. Medical social services, home health aid services, and other therapeutic ~~services;~~ services.

d. Medical supplies, other than drugs and biologicals and the use of medical ~~appliances;~~ appliances.

e. Any of the ~~foregoing~~ items and services listed in this subdivision

which are provided on an outpatient basis under arrangements made

by the home health agency at a hospital or nursing home facility or

rehabilitation center and the furnishing of which involves the use of

equipment of such a nature that the items and services cannot readily be made available to the individual ~~in his~~ at home, or which are furnished at ~~such the~~ facility while ~~he the~~ individual is there to receive any such item or service, but not including transportation of the individual in connection with any such item or service.

(13) ~~"Hospital" means a Hospital.~~ – A public or private institution which is primarily engaged in providing to inpatients, by or under supervision of physicians, diagnostic services and therapeutic services for medical diagnosis, treatment, and care of injured, disabled, or sick persons, or rehabilitation services for the ~~rehabilitation of injured, disabled, or sick persons.~~ The term includes all facilities licensed pursuant to ~~G.S. 131E 77 of the General Statutes, G.S. 131E-77,~~ except long-term care hospitals.

(13a) ~~"Hospice" means any Hospice.~~ – Any coordinated program of home care with provision for inpatient care for terminally ill patients and their families. This care is provided by a medically directed interdisciplinary team, directly or through an agreement under the direction of an identifiable hospice administration. A hospice program of care provides palliative and supportive medical and other health services to meet the physical, psychological, social, ~~spiritual~~ spiritual, and special needs of patients and their families, which are experienced during the final stages of terminal illness and during dying and bereavement.

(13b) ~~"Hospice inpatient facility" means a Hospice inpatient facility.~~ – A freestanding licensed hospice facility or a designated inpatient unit in an existing health service facility which provides palliative and supportive medical and other health services to meet the physical, psychological, social, spiritual, and special needs of terminally ill patients and their families in an

inpatient setting. For purposes of this Article only, a hospital which has a contractual agreement with a licensed hospice to provide inpatient services to a hospice patient as defined in G.S. 131E-201(4) and provides those services in a licensed acute care bed is not a hospice inpatient facility and is not subject to the requirements in ~~G.S. 131E-176(5)(ii)~~ sub-subdivision (5)b. of this section for hospice inpatient beds.

(13c) ~~"Hospice residential care facility" means a~~ Hospice residential care facility. –
A freestanding licensed hospice facility which provides palliative and
supportive medical and other health services to meet the physical,
psychological, social, spiritual, and special needs of terminally ill patients and
their families in a group residential setting.

(14) Repealed by Session Laws 1987, c. 511, s. 1.

(14a) ~~"Intermediate care facility for the mentally retarded" means facilities~~
Intermediate care facility for individuals with intellectual disabilities. –
Facilities licensed pursuant to Article 2 of Chapter 122C of the General
 Statutes for the purpose of providing health and habilitative services based on
 the developmental model and principles of normalization for ~~persons with~~
~~mental retardation,~~ individuals with intellectual disabilities, autism, cerebral
 palsy, epilepsy or related conditions.

(14b) Repealed by Session Laws 1991, c. 692, s. 1.

(14c) Reserved for future codification.

(14d) Repealed by Session Laws 2001-234, s. 2, effective January 1, 2002.

(14e) ~~"Kidney disease treatment center" means a~~ Kidney disease treatment center. –
A facility that is certified as an end-stage renal disease facility by the Centers
for Medicare and Medicaid Services, Department of Health and Human
Services, pursuant to 42 C.F.R. § 405.

(14f) ~~"Legacy Medical Care Facility" means a~~ Legacy medical care facility. – A

~~facility~~ that meets all of the following requirements:

a. Is not presently operating.

b. Has not continuously operated for at least the past six months.

c. Within the last 24 months:

1. Was operated by a person holding a license under

G.S. 131E-77; and

2. Was primarily engaged in providing to *inpatients* or

outpatients, by or under supervision of physicians, (i)

diagnostic services and therapeutic services for medical

diagnosis, treatment, and care of injured, disabled, or sick

persons or (ii) rehabilitation services for the rehabilitation of

injured, disabled, or sick persons.

(14g) ~~"Linear accelerator" means a~~ Linear accelerator. – A machine used to produce

ionizing radiation in excess of 1,000,000 electron volts in the form of a beam

of electrons or photons to treat cancer patients.

(14h) Reserved for future codification.

(14i) ~~"Lithotripter" means extra-corporeal~~ Lithotripter. – Extra-corporeal shock

wave technology used to treat persons with kidney stones and gallstones.

(14j) Reserved for future codification.

(14k) ~~"Long-term care hospital" means a~~ Long-term care hospital. – A hospital that

has been classified and designated as a long-term care hospital by the Centers

for Medicare and Medicaid Services, Department of Health and Human

Services, pursuant to 42 C.F.R. § 412.

(14l) Reserved for future codification.

(14m) ~~"Magnetic resonance imaging scanner" means medical~~ Magnetic resonance imaging scanner. – Medical imaging equipment that uses nuclear magnetic resonance.

(14n) ~~"Main campus" means all~~ Main campus. – All of the following for the purposes of G.S. 131E-184(f) and (g) only:

a. The site of the main building from which a licensed health service facility provides clinical patient services and exercises financial and administrative control over the entire facility, including the buildings and grounds adjacent to that main building.

b. Other areas and structures that are not strictly contiguous to the main building but are located within 250 yards of the main building.

(14o) ~~"Major medical equipment" means a~~ Major medical equipment. – A single unit or single system of components with related functions which is used to provide medical and other health services and which costs more than seven hundred fifty thousand dollars (\$750,000). In determining whether the major medical equipment costs more than seven hundred fifty thousand dollars (\$750,000), the costs of the equipment, studies, surveys, designs, plans, working drawings, specifications, construction, installation, and other activities essential to acquiring and making operational the major medical equipment shall be included. The capital expenditure for the equipment shall be deemed to be the fair market value of the equipment or the cost of the equipment, whichever is greater. Major medical equipment does not include replacement equipment as defined in this section.

(15) Repealed by Session Laws 1987, c. 511, s. 1.

(15a) ~~"Multispecialty ambulatory surgical program" means a~~ Multispecialty ambulatory surgical program. – A formal program for providing on a

1 same-day basis surgical procedures for at least three of the following specialty
 2 areas: gynecology, otolaryngology, plastic surgery, general surgery,
 3 ophthalmology, orthopedic, or oral surgery.

4 (15b) ~~"Neonatal intensive care services" means those~~ Neonatal intensive care
 5 services. – Those services provided by a health service facility to high-risk
 6 newborn infants who require constant nursing care, including but not limited
 7 to continuous cardiopulmonary and other supportive care.

8 (16) ~~"New institutional health services" means any~~ New institutional health
 9 services. – Any of the following:

10 a. The construction, development, or other establishment of a new health
 11 service facility.

12 b. Except as otherwise provided in G.S. 131E-184(e), the obligation by
 13 any person of a capital expenditure exceeding two million dollars
 14 (\$2,000,000) to develop or expand a health service or a health service
 15 facility, or which relates to the provision of a health service. The cost
 16 of any studies, surveys, designs, plans, working drawings,
 17 specifications, and other activities, including staff effort and
 18 consulting and other services, essential to the acquisition,
 19 improvement, expansion, or replacement of any plant or equipment
 20 with respect to which an expenditure is made shall be included in
 21 determining if the expenditure exceeds two million dollars
 22 (\$2,000,000).

23 c. Any change in bed ~~capacity as defined in G.S. 131E-176(5).~~ capacity.

24 d. The offering of dialysis services or home health services by or on
 25 behalf of a health service facility if those services were not offered
 26 within the previous 12 months by or on behalf of the facility.

e. A change in a project that was subject to certificate of need review and for which a certificate of need was issued, if the change is proposed during the development of the project or within one year after the project was completed. For purposes of this subdivision, a change in a project is a change of more than fifteen percent (15%) of the approved capital expenditure amount or the addition of a health service that is to be located in the facility, or portion thereof, that was constructed or developed in the project.

f. The development or offering of a health service as listed in this subdivision by or on behalf of any person:

1. Bone marrow transplantation services.

2. Burn intensive care services.

2a. Cardiac catheterization services, except cardiac catheterization services provided on equipment furnished by a person authorized to operate ~~such the~~ equipment in North Carolina pursuant to either a certificate of need issued for mobile cardiac catheterization equipment or a settlement agreement executed by the Department for provision of cardiac catheterization services.

3. Neonatal intensive care services.

4. Open-heart surgery services.

5. Solid organ transplantation services.

f1. The acquisition by purchase, donation, lease, transfer, or comparable arrangement of any of the following equipment by or on behalf of any person:

1. Air ambulance.

2. Repealed by Session Laws 2005-325, s. 1, effective for hospices and hospice offices December 31, 2005.

3. Cardiac catheterization equipment.

4. Gamma knife.

5. Heart-lung bypass machine.

5a. Linear accelerator.

6. Lithotripter.

7. Magnetic resonance imaging scanner.

8. Positron emission tomography scanner.

9. Simulator.

g. to k. Repealed by Session Laws 1987, c. 511, s. 1.

l. The purchase, lease, or acquisition of any health service facility, or portion thereof, or a controlling interest in the health service facility or portion thereof, if the health service facility was developed under a certificate of need issued pursuant to G.S. 131E-180.

m. Any conversion of nonhealth service facility beds to health service facility beds.

n. The construction, development or other establishment of a hospice, hospice inpatient facility, or hospice residential care facility;

o. The opening of an additional office by an existing home health agency or hospice within its service area as defined by rules adopted by the Department; or the opening of any office by an existing home health agency or hospice outside its service area as defined by rules adopted by the Department.

p. The acquisition by purchase, donation, lease, transfer, or comparable arrangement by any person of major medical equipment.

- 1 q. The relocation of a health service facility from one service area to
- 2 another.
- 3 r. The conversion of a specialty ambulatory surgical program to a
- 4 multispecialty ambulatory surgical program or the addition of a
- 5 specialty to a specialty ambulatory surgical program.
- 6 s. The furnishing of mobile medical equipment to any person to provide
- 7 health services in North Carolina, which was not in use in North
- 8 Carolina prior to the adoption of this provision, if ~~such the~~ equipment
- 9 would otherwise be subject to review in accordance with
- 10 ~~G.S. 131E-176(16)(f1.) sub-subdivision f1. of this subdivision or~~
- 11 ~~G.S. 131E-176(16)(p) sub-subdivision p. of this subdivision~~ if it had
- 12 been acquired in North Carolina.
- 13 t. Repealed by Session Laws 2001-242, s. 4, effective June 23, 2001.
- 14 u. The construction, development, establishment, increase in the number,
- 15 or relocation of an operating room or gastrointestinal endoscopy room
- 16 in a licensed health service facility, other than the relocation of an
- 17 operating room or gastrointestinal endoscopy room within the same
- 18 building or on the same grounds or to grounds not separated by more
- 19 than a public right-of-way adjacent to the grounds where the operating
- 20 room or gastrointestinal endoscopy room is currently located.
- 21 v. The change in designation, in a licensed health service facility, of an
- 22 operating room to a gastrointestinal endoscopy room or change in
- 23 designation of a gastrointestinal endoscopy room to an operating room
- 24 that results in a different number of each type of room than is reflected
- 25 on the health service facility's license in effect as of January 1, 2005.

(17) ~~"North Carolina State Health Coordinating Council" means the North Carolina State Health Coordinating Council. – The Council that prepares, with the Department of Health and Human Services, the State Medical Facilities Plan.~~

(17a) ~~"Nursing care" means:~~Nursing care. – Any of the following:

- a. Skilled nursing care and related services for residents who require medical or nursing ~~care;~~care.
- b. Rehabilitation services for the rehabilitation of ~~injured, disabled, or sick persons; or~~individuals who are injured or sick or who have disabilities.
- c. Health-related care and services provided on a regular basis to individuals who because of their mental or physical condition require care and services above the level of room and board, which can be made available to them only through institutional facilities.

These are services which are not primarily for the care and treatment of mental diseases.

(17b) ~~"Nursing home facility" means a~~Nursing home facility. – A health service facility whose bed complement of health service facility beds is composed principally of nursing home facility beds.

(18) ~~To "offer," when used in~~Offer. – In connection with health services, means that the the act by a person holds himself of holding out as capable of providing, or as having the means for the provision of, to provide, specified health services.

(18a) Repealed by Session Laws 2005-325, s. 1, effective for hospices and hospice offices December 31, 2005.

- 1 (18b) ~~"Open heart surgery services" means the~~ Open-heart surgery services. – The
 2 provision of surgical procedures that utilize a heart-lung bypass machine
 3 during surgery to correct cardiac and coronary artery disease or defects.
- 4 (18c) ~~"Operating room" means a~~ Operating room. – A room used for the
 5 performance of surgical procedures requiring one or more incisions and that
 6 is required to comply with all applicable licensure codes and standards for an
 7 operating room.
- 8 (19) ~~"Person" means an~~ Person. – An ~~individual, individual; a trust or estate, estate;~~
 9 ~~a partnership, partnership; a corporation, including associations, joint stock~~
 10 ~~companies, and insurance companies; the State, State; or a political~~
 11 ~~subdivision or agency or instrumentality of the State.~~
- 12 (19a) ~~"Positron emission tomography scanner" means equipment~~ Positron emission
 13 tomography scanner. – Equipment that utilizes a computerized radiographic
 14 technique that employs radioactive substances to examine the metabolic
 15 activity of various body structures.
- 16 (20) ~~"Project" or "capital expenditure project" means a~~ Project or capital
 17 expenditure project. – A proposal to undertake a capital expenditure that
 18 results in the offering of a new institutional health service as defined by this
 19 Article, service. A project, or capital expenditure project, or proposed project
 20 may refer to the project from its earliest planning stages up through the point
 21 at which the specified new institutional health service may be offered. In the
 22 case of facility construction, the point at which the new institutional health
 23 service may be offered must take place after the facility is capable of being
 24 fully licensed and operated for its intended use, and at that time it shall be
 25 considered a health service facility.

(21) ~~"Psychiatric facility" means a~~ Psychiatric facility. – A public or private facility licensed pursuant to Article 2 of Chapter 122C of the General Statutes and which is primarily engaged in providing to inpatients, by or under the supervision of a physician, psychiatric services for the diagnosis and treatment of ~~mentally ill persons~~ individuals with mental illnesses.

(22) ~~"Rehabilitation facility" means a~~ Rehabilitation facility. – A public or private inpatient facility which is operated for the primary purpose of assisting in the rehabilitation of ~~disabled persons~~ individuals with disabilities through an integrated program of medical and other services which are provided under competent, professional supervision.

(22a) ~~"Replacement equipment" means equipment~~ Replacement equipment. – Equipment that costs less than two million dollars (\$2,000,000) and is purchased for the sole purpose of replacing comparable medical equipment currently in use which will be sold or otherwise disposed of when replaced. In determining whether the replacement equipment costs less than two million dollars (\$2,000,000), the costs of equipment, studies, surveys, designs, plans, working drawings, specifications, construction, installation, and other activities essential to acquiring and making operational the replacement equipment shall be included. The capital expenditure for the equipment shall be deemed to be the fair market value of the equipment or the cost of the equipment, whichever is greater.

(23) Repealed by Session Laws 1991, c. 692, s. 1.

(24) Repealed by Session Laws 1993, c. 7, s. 2.

(24a) ~~"Service area" means the~~ Service area. – The area of the State, as defined in the State Medical Facilities Plan or in rules adopted by the Department, which receives services from a health service facility.

1 (24b) ~~"Simulator" means a~~ Simulator. – A machine that produces high quality
2 diagnostic radiographs and precisely reproduces the geometric relationships
3 of megavoltage radiation therapy equipment to the patient.

4 (24c) Reserved for future codification.

5 (24d) ~~"Solid organ transplantation services" means the~~ Solid organ transplantation
6 services. – The provision of surgical procedures and the interrelated medical
7 services that accompany the surgery to remove an organ from a patient and
8 surgically implant an organ from a donor.

9 (24e) Reserved for future codification.

10 (24f) ~~"Specialty ambulatory surgical program" means a~~ Specialty ambulatory
11 surgical program. – A formal program for providing on a same-day basis
12 surgical procedures for only the specialty areas identified on the ambulatory
13 surgical facility's 1993 Application for Licensure as an Ambulatory Surgical
14 Center and authorized by its certificate of need.

15 (25) ~~"State Medical Facilities Plan" means the~~ State Medical Facilities Plan. – The
16 plan prepared by the Department of Health and Human Services and the North
17 Carolina State Health Coordinating Council, and approved by the Governor.
18 In preparing the Plan, the Department and the State Health Coordinating
19 Council shall maintain a mailing list of persons who have requested notice of
20 public hearings regarding the Plan. Not less than 15 days prior to a scheduled
21 public hearing, the Department shall notify persons on its mailing list of the
22 date, time, and location of the hearing. The Department shall hold at least one
23 public hearing prior to the adoption of the proposed Plan and at least six public
24 hearings after the adoption of the proposed Plan by the State Health
25 Coordinating Council. The Council shall accept oral and written comments
26 from the public concerning the Plan.

(26) Repealed by Session Laws 1983 (Regular Session, 1984), c. 1002, s. 9.

(27) Repealed by Session Laws 1987, c. 511, s. 1."

[Staff Note: Article 1 of Chapter 131E does not discuss licensing and has no parts. The parts of Article 6 of Chapter 131E are numbered, not lettered, and Part 4 discusses ambulatory surgical facility licensure.

1983, c. 1110, s. 1, added subdivision (5a) to G.S. 131E-176. Chapter 122 was later repealed by 1985, c. 589, s. 1.

The definition of hospital in subdivision (13) matches federal Social Security Administration law. "Intermediate care for individuals with intellectual disabilities" matches the federal term.]

1 **4.(d) [8.(d)]**

2 **"§ 131E-184. Exemptions from review.**

3 (a) Except as provided in subsection ~~(b)~~, (b) of this section, the Department shall exempt
 4 from certificate of need review a new institutional health service if it receives prior written notice
 5 from the entity proposing the new institutional health service, which notice includes an
 6 explanation of why the new institutional health service is required, for any of the following:

7 (1) To eliminate or prevent imminent safety hazards as defined in federal, State,
 8 or local fire, building, or life safety codes or regulations.

9 (1a) To comply with State licensure standards.

10 (1b) To comply with accreditation or certification standards which must be met to
 11 receive reimbursement under Title XVIII of the Social Security Act or
 12 payments under a State plan for medical assistance approved under Title XIX
 13 of that act.

14 (2) Repealed by Session Laws 1987, c. 511, s. 1.

15 (3) To provide data processing equipment.

16 (4) To provide parking, heating or cooling systems, elevators, or other basic plant
 17 or mechanical improvements, unless these activities are integral portions of a
 18 project that involves the construction of a new health service facility or portion
 19 thereof and that is subject to certificate of need review.

20 (5) To replace or repair facilities destroyed or damaged by accident or natural
 21 disaster.

22 (6) To provide any nonhealth service facility or service.

23 (7) To provide replacement equipment.

24 (8) To acquire an existing health service facility, including equipment owned by
 25 the health service facility at the time of acquisition. A facility not currently
 26 licensed as an adult care home that was licensed as an adult care home within

the preceding 12 months is considered an existing health service facility for the purposes of this subdivision.

- (9) To develop or acquire a physician office building regardless of cost, unless a new institutional health service other than defined in G.S. 131E-176(16)b. is offered or developed in the building.

(b) Those portions of a proposed project which are not proposed for one or more of the purposes under subsection (a) of this section are subject to certificate of need review, if these non-exempt portions of the project are new institutional health services under G.S. 131E-176(16).

(c) The Department shall exempt from certificate of need review any conversion of existing acute care beds to psychiatric beds ~~provided:~~provided all of the following are true:

- (1) The hospital proposing the conversion has executed a contract with the Department's Division of Mental Health, Developmental Disabilities, and Substance Abuse ~~Services and/or Services, one or more of the Area Mental Health, Developmental Disabilities, and Substance Abuse Authorities area mental health, developmental disabilities, and substance abuse authorities, or a combination thereof~~ to provide psychiatric beds to patients referred by the contracting agency or ~~agencies; and agencies.~~

- (2) The total number of beds to be converted shall not be more than twice the number of beds for which the contract pursuant to subdivision (1) of this subsection shall provide.

(d) In accordance with, and subject to the limitations of G.S. 148-19.1, the Department shall exempt from certificate of need review the construction and operation of a new chemical dependency or substance abuse facility for the purpose of providing inpatient chemical dependency or substance abuse services solely to inmates of the Division of Adult Correction and Juvenile Justice of the Department of Public Safety. If an inpatient chemical dependency or

substance abuse facility provides services both to inmates of the Division of Adult Correction and Juvenile Justice of the Department of Public Safety and to members of the general public, only the portion of the facility that serves inmates shall be exempt from certificate of need review.

(e) The Department shall exempt from certificate of need review a capital expenditure that exceeds the two million dollar (\$2,000,000) threshold set forth in G.S. 131E-176(16)b. if all of the following conditions are met:

(1) The proposed capital expenditure ~~would~~would meet all of the following requirements:

a. Be used solely for the purpose of renovating, replacing on the same site, or expanding ~~an existing~~any of the following existing facilities:

1. Nursing home ~~facility~~facility.

2. Adult care home ~~facility, or~~facility.

3. Intermediate care facility for ~~the mentally retarded;~~
~~and~~individuals with intellectual disabilities.

b. Not result in a change in bed capacity, as defined in G.S. 131E-176(5), or the addition of a health service facility or any other new institutional health service other than that allowed in G.S. 131E-176(16)b.

(2) The entity proposing to incur the capital expenditure provides prior written notice to the Department, which notice includes documentation that demonstrates that the proposed capital expenditure would be used for one or more of the following purposes:

a. Conversion of semiprivate resident rooms to private rooms.

b. Providing innovative, homelike residential dining spaces, such as cafes, kitchenettes, or private dining areas to accommodate residents and their families or visitors.

1 c. Renovating, replacing, or expanding residential living or common
2 areas to improve the quality of life of residents.

3 (f) The Department shall exempt from certificate of need review the purchase of any
4 replacement equipment that exceeds the two million dollar (\$2,000,000) threshold set forth in
5 G.S. 131E-176(22a) if all of the following conditions are met:

6 (1) The equipment being replaced is located on the main campus.

7 (2) The Department has previously issued a certificate of need for the equipment
8 being replaced. This subdivision does not apply if a certificate of need was not
9 required at the time the equipment being replaced was initially purchased by
10 the licensed health service facility.

11 (3) The licensed health service facility proposing to purchase the replacement
12 equipment shall provide prior written notice to the Department, along with
13 supporting documentation to demonstrate that it meets the exemption criteria
14 of this subsection.

15 (g) The Department shall exempt from certificate of need review any capital expenditure
16 that exceeds the two million dollar (\$2,000,000) threshold set forth in G.S. 131E-176(16)b. if all
17 of the following conditions are met:

18 (1) The sole purpose of the capital expenditure is to renovate, replace on the same
19 site, or expand the entirety or a portion of an existing health service facility
20 that is located on the main campus.

21 (2) The capital expenditure does not result in (i) a change in bed capacity as
22 defined in G.S. 131E-176(5) or (ii) the addition of a health service facility or
23 any other new institutional health service other than that allowed in
24 G.S. 131E-176(16)b.

25 (3) The licensed health service facility proposing to incur the capital expenditure
26 shall provide prior written notice to the Department, along with supporting

documentation to demonstrate that it meets the exemption criteria of this subsection.

(h) The Department shall exempt from certificate of need review the acquisition or reopening of a ~~Legacy Medical Care Facility~~ legacy medical care facility. The person seeking to operate a ~~Legacy Medical Care Facility~~ legacy medical care facility shall give the Department written notice of all of the following:

(1) Its intention to acquire or reopen a ~~Legacy Medical Care Facility~~ legacy medical care facility within the same county and the same service area as the facility that ceased continuous operations. If the ~~Legacy Medical Facility~~ legacy medical care facility will become operational in a new location within the same county and the same service area as the facility that ceased continuous operations, then the person responsible for giving the written notice required by this section shall notify the Department, as soon as reasonably practicable and prior to becoming operational, of the new location of the ~~Legacy Medical Care Facility~~ legacy medical care facility. For purposes of this subdivision, "service area" means the service area identified in the North Carolina State Medical Facilities Plan in effect at the time the written notice required by this section is given to the Department.

(2) That the facility will be operational within 36 months of the notice.

The Department shall extend the time by which a facility must be operational in order to be exempt from certificate of need review under this subsection by one additional 36-month period if the person seeking to reopen or acquire the ~~Legacy Medical Care Facility~~ legacy medical care facility gives the Department written notice of extension within 36 months of the original notice of intent to acquire or reopen the ~~Legacy Medical Care Facility~~ legacy medical care facility. The written notice of extension must notify the Department (i) that the person has undertaken all reasonable efforts to make the facility operational within 36 months of the notice of intent, (ii)

1 *that, despite these reasonable efforts, the person does not anticipate the facility will be*
2 *operational within that time, and (iii) of its intention that the facility will be operational within*
3 *36 months of the notice of extension."*

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1 **4.(e) [8.(e)]**

2 **"§ 131E-186. Decision.**

3 (a) Within the prescribed time limits in G.S. 131E-185, the Department shall issue a
4 decision to "approve," "approve with conditions," or "deny," an application for a new institutional
5 health service. Approvals involving new or expanded ~~nursing care or intermediate care for the~~
6 ~~mentally retarded bed capacity~~ bed capacity for nursing care or intermediate care for individuals
7 with intellectual disabilities shall include a condition that specifies the earliest possible date the
8 new institutional health service may be certified for participation in the Medicaid program. The
9 date shall be set far enough in advance to allow the Department to identify funds to pay for care
10 in the new or expanded facility in its existing Medicaid budget or to include these funds in its
11 State Medicaid budget request for the year in which Medicaid certification is expected.

12 (b) Within five business days after it makes a decision on an application, the Department
13 shall provide written notice of all the findings and conclusions upon which it based its decision,
14 including the criteria used by the Department in making its decision, to the applicant."

1 **4.(f) [8.(f)]**

2 **"§ 131E-214.1. Definitions.**

3 ~~As used in this Article:~~The following definitions apply in this Article:

- 4 (1) ~~"Division" means the~~Division. – The Division of Health Service Regulation
5 of the Department of Health and Human Services.
- 6 (2) ~~"Freestanding ambulatory surgical facility" means a~~Freestanding ambulatory
7 surgical facility. – A facility licensed under ~~Part D~~Part 4 of Article 6 of this
8 Chapter.
- 9 (3) ~~"Hospital" means a~~Hospital. – A facility licensed under Article 5 of this
10 Chapter or Article 2 of Chapter 122C of the General Statutes, but does not
11 include the following:
- 12 a. A facility with all of its beds designated for medical type "LTC"
13 (long-term care).
- 14 [Ask DHHS] b. A facility with the majority of its beds designated for
15 medical type "PSY-3" ~~(mental retardation)~~(intellectual disability).
- 16 c. A facility operated by the Division of Adult Correction and Juvenile
17 Justice of the Department of Public Safety.
- 18 (4) ~~"Patient data" means data~~Patient data. – Data that includes a patient's age,
19 sex, race, ethnicity, zip code, third-party coverage, principal and other
20 ~~diagnosis, diagnoses,~~ date of admission, procedure and discharge date,
21 principal and other procedures, total charges and components of the total
22 charges, attending physician identification number, and hospital or
23 freestanding ambulatory surgical facility identification number.
- 24 (5) ~~"Patient identifying information" means the~~Patient identifying information. –
25 The name, address, social security number, or similar information by which
26 the identity of a patient can be determined with reasonable accuracy and speed

1 either directly or by reference to other publicly available information. The
2 term does not include a number assigned to a patient by a health care provider
3 if that number does not consist of or contain numbers, including social security
4 or drivers license numbers, that could be used to identify a patient with
5 reasonable accuracy and speed from sources external to the health care
6 provider.

7 (6) ~~"Statewide data processor" means a~~ Statewide data processor. – A data
8 processor certified by the Division as capable of complying with the
9 requirements of G.S. 131E-214.4. The Division may deny, suspend, or revoke
10 a certificate, in accordance with Chapter 150B of the General Statutes, if the
11 statewide data processor does not comply with or is not capable of complying
12 with the requirements of G.S. 131E-214.4. The Division ~~is authorized to may~~
13 promulgate rules concerning the receipt, consideration, and limitation of a
14 certificate applied for or issued under this Article."

15 *[Staff Note: The parts of Article 6 of Chapter 131E are numbered, not lettered, and Part 4*
16 *discusses ambulatory surgical facility licensure.]*
17

1 *[Staff Note: A colleague in the Bill Drafting Division who drafts in the Medicaid area would like*
2 *for us to remove 9(a) through 9(e), because Medicaid is undergoing transformation right now.*
3 *She will clean up these statutes. However, if the Commission still wants to replace "mental*
4 *retardation" in these statutes, then she asks that we only make that change.]*
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1 **5. [9.(f)]**

2 **"§ 108A-101. Definitions.**

3 (a) The word "abuse" means the willful infliction of physical pain, injury or mental
4 anguish, unreasonable confinement, or the willful deprivation by a caretaker of services which
5 are necessary to maintain mental and physical health.

6 (b) The word "caretaker" shall mean an individual who has the responsibility for the care
7 of the disabled adult as a result of family relationship or who has assumed the responsibility for
8 the care of the disabled adult voluntarily or by contract.

9 (c) The word "director" shall mean the director of the county department of social
10 services in the county in which the person resides or is present, or his representative as authorized
11 in G.S. 108A-14.

12 (d) The words "disabled adult" shall mean any person 18 years of age or over or any
13 lawfully emancipated minor who is present in the State of North Carolina and who is physically
14 or mentally incapacitated due to ~~mental retardation~~, an intellectual disability, cerebral palsy,
15 epilepsy or autism; organic brain damage caused by advanced age or other physical degeneration
16 in connection therewith; or due to conditions incurred at any age which are the result of accident,
17 organic brain damage, mental or physical illness, or continued consumption or absorption of
18 substances.

19 (e) A "disabled adult" shall be "in need of protective services" if that person, due to his
20 physical or mental incapacity, is unable to perform or obtain for himself essential services and if
21 that person is without able, responsible, and willing persons to perform or obtain for his essential
22 services.

23 (f) The words "district court" shall mean the judge of that court.

24 (g) The word "emergency" refers to a situation where (i) the disabled adult is in
25 substantial danger of death or irreparable harm if protective services are not provided
26 immediately, (ii) the disabled adult is unable to consent to services, (iii) no responsible, able, or

1 willing caretaker is available to consent to emergency services, and (iv) there is insufficient time
2 to utilize procedure provided in G.S. 108A-105.

3 (h) The words "emergency services" refer to those services necessary to maintain the
4 person's vital functions and without which there is reasonable belief that the person would suffer
5 irreparable harm or death. This may include taking physical custody of the disabled person.

6 (i) The words "essential services" shall refer to those social, medical, psychiatric,
7 psychological or legal services necessary to safeguard the disabled adult's rights and resources
8 and to maintain the physical or mental well-being of the individual. These services shall include,
9 but not be limited to, the provision of medical care for physical and mental health needs,
10 assistance in personal hygiene, food, clothing, adequately heated and ventilated shelter,
11 protection from health and safety hazards, protection from physical mistreatment, and protection
12 from exploitation. The words "essential services" shall not include taking the person into physical
13 custody without his consent except as provided for in G.S. 108A-106 and in Chapter 122C of the
14 General Statutes.

15 (j) The word "exploitation" means the illegal or improper use of a disabled adult or his
16 resources for another's profit or advantage.

17 (k) The word "indigent" shall mean indigent as defined in G.S. 7A-450.

18 (l) The words "lacks the capacity to consent" shall mean lacks sufficient understanding
19 or capacity to make or communicate responsible decisions concerning his person, including but
20 not limited to provisions for health or mental health care, food, clothing, or shelter, because of
21 physical or mental incapacity. This may be reasonably determined by the director or he may seek
22 a physician's or psychologist's assistance in making this determination.

23 (m) The word "neglect" refers to a disabled adult who is either living alone and not able
24 to provide for himself or herself the services which are necessary to maintain the person's mental
25 or physical health or is not receiving services from the person's caretaker. A person is not
26 receiving services from his caretaker if, among other things and not by way of limitation, the

1 person is a resident of one of the State-owned psychiatric hospitals listed in G.S. 122C-181(a)(1),
2 the State-owned Developmental Centers listed in G.S. 122C-181(a)(2), or the State-owned
3 Neuro-Medical Treatment Centers listed in G.S. 122C-181(a)(3), the person is, in the opinion of
4 the professional staff of that State-owned facility, mentally incompetent to give consent to
5 medical treatment, the person has no legal guardian appointed pursuant to Chapter 35A, or
6 guardian as defined in G.S. 122C-3(15), and the person needs medical treatment.

7 (n) The words "protective services" shall mean services provided by the State or other
8 government or private organizations or individuals which are necessary to protect the disabled
9 adult from abuse, neglect, or exploitation. They shall consist of evaluation of the need for service
10 and mobilization of essential services on behalf of the disabled adult."

11 *[Staff Note: This draft makes only one change to G.S. 108A-101. We propose fixing the rest of*
12 *this section and statutes that reference this section in a later draft.]*
13

1 **6. [11.(b)]**

2 **"§ 115C-108.1. State Board lead agency.**

3 (a) The Board shall cause all local educational agencies to provide special education and
4 related services to children with disabilities in their care, custody, management, jurisdiction,
5 control, or programs.

6 (b) The jurisdiction of the Board with respect to the design and content of special
7 education programs or related services for children with disabilities extends to and over the
8 Department of Health and Human Services, and the Division of Adult Correction and Juvenile
9 Justice of the Department of Public Safety.

10 (c) All provisions of this Article that are specifically applicable to local school
11 administrative units also are applicable to the Department of Health and Human Services, and
12 the Division of Adult Correction and Juvenile Justice of the Department of Public Safety, and
13 their divisions and agencies; all duties, responsibilities, rights, and privileges specifically
14 imposed on or granted to local school administrative units by this Article also are imposed on or
15 granted to the Department of Health and Human Services, and the Division of Adult Correction
16 and Juvenile Justice of the Department of Public Safety, and their divisions and agencies.
17 However, with respect to children with disabilities who are residents or patients of any
18 State-operated or State-supported residential treatment facility, including a school for the deaf,
19 school for the blind, mental hospital or center, ~~mental retardation center,~~ developmental center,
20 or in a facility operated by the Division of Adult Correction and Juvenile Justice of the
21 Department of Public Safety, or any of their divisions and agencies, the Board may contract with
22 the Department of Health and Human Services, and the Division of Adult Correction and Juvenile
23 Justice of the Department of Public Safety for the provision of special education and related
24 services and the power to review, revise, and approve any plans for special education and related
25 services to those residents.

1 (d) The Department of Health and Human Services and the Department of Public Safety
2 shall submit to the Board their plans for the education of children with disabilities in their care,
3 custody, or control. The Board may grant specific exemptions for programs administered by the
4 Department of Health and Human Services or the Division of Adult Correction and Juvenile
5 Justice of the Department of Public Safety when compliance by them with the Board's standards
6 would, in the Board's judgment, impose undue hardship on that department or division and when
7 other procedural due process requirements, substantially equivalent to those required under this
8 Article and IDEA, are assured in programs of special education and related services furnished to
9 children with disabilities served by that department. Further, the Board shall recognize that
10 inpatient and residential special education programs within the ~~Departments-Department~~ of
11 Health and Human Services or the Division of Adult Correction and Juvenile Justice of the
12 Department of Public Safety may require more program resources than those necessary for
13 optimal operation of these programs in local school administrative units.

14 (e) The Board shall support and encourage joint and collaborative special education
15 planning and programming at local levels to include local school administrative units and the
16 programs and agencies of the ~~Departments-Department~~ of Health and Human Services or the
17 Division of Adult Correction and Juvenile Justice of the Department of Public Safety."

1 **7.(a) [14.(a)]**

2 **"§ 131D-10.4. Exemptions.**

3 This Article ~~shall~~does not apply ~~to~~to any of the following:

- 4 (1) Any residential child-care facility chartered by the laws of ~~the State of~~ North
5 Carolina (or operating under charters of other states which have complied with
6 the corporation laws of North Carolina) which has a plant and assets worth
7 sixty thousand dollars (\$60,000) or more and which is owned or operated by
8 a religious denomination or fraternal order and which was in operation before
9 July 1, ~~1977~~1977.
- 10 (2) State institutions for ~~emotionally disturbed or delinquent children, the~~
11 ~~mentally ill, mentally retarded, and children with serious emotional~~
12 ~~disturbances, delinquent children, or individuals with mental illnesses,~~
13 ~~intellectual or developmental disabilities, or substance abusers;~~substance use
14 ~~disorders.~~
- 15 (3) Secure detention facilities as specified in Part 3 of Article 13 of Chapter 143B
16 of the General ~~Statutes~~Statutes.
- 17 (4) Licensable facilities subject to the rules of the Commission for Mental Health,
18 Developmental Disabilities, and Substance Abuse Services as specified in
19 Article 2 of Chapter 122C of the General ~~Statutes~~Statutes.
- 20 (5) Persons authorized by statute to receive and place children for foster care and
21 adoption in accordance with ~~G.S. 108A-14~~G.S. 108A-14.
- 22 (6) Primarily educational institutions as defined in ~~G.S. 131D-10.2(11)~~;
23 ~~or~~G.S. 131D-10.2(11).
- 24 (7) Individuals who are related by blood, marriage, or adoption to the child."

1 **7.(b) [14.(b)]**

2 **"§ 131D-31. Adult care home community advisory committees.**

3 (a) Statement of Purpose. – It is the intention of the General Assembly that community
4 advisory committee members function as representatives of the Office of the State Long-Term
5 Care Ombudsman and through their designation work to maintain the intent of the Adult Care
6 Home Residents' Bill of Rights within the licensed adult care homes in this State. It is the further
7 intent of the General Assembly that the committees promote community involvement and
8 cooperation with adult care homes to ensure quality care for the elderly and ~~disabled adults~~
9 adults with disabilities.

10 (b) Establishment and Appointment of Committees. –

11 (1) A community advisory committee shall be established in each county that has
12 at least one licensed adult care home, shall serve all the homes in the county,
13 and shall work with each of these homes for the best interests of the residents.
14 In a county that has one, two, or three adult care homes with 10 or more beds,
15 the committee shall have five members.

16 (2) In a county with four or more adult care homes with 10 or more beds, the
17 committee shall have one additional member for each adult care home with
18 10 or more beds in excess of three, and may have up to five additional
19 members at the discretion of the county commissioners, not to exceed a
20 maximum of 25 members. In each county with four or more adult care homes
21 with 10 or more beds, the committee shall establish a subcommittee of no
22 more than five members and no fewer than three members from the committee
23 for each adult care home in the county. Each member must serve on at least
24 one subcommittee.

25 (3) In counties with no adult care homes with 10 or more beds, the committee
26 shall have five members. Regardless of how many members a particular

community advisory committee is required to have, at least one member of each committee shall be a person involved in the area of ~~mental retardation~~ intellectual or developmental disabilities.

(4) The boards of county commissioners are encouraged to appoint the ~~Adult Care Home Community Advisory Committees~~ adult care home community advisory committees. Of the members, a minority (not less than one-third, but as close to one-third as possible) shall be chosen from among persons nominated by a majority of the chief administrators of adult care homes in the county. If the adult care home administrators fail to make a nomination within 45 days after written notification has been sent to them requesting a nomination, these appointments may be made without nominations. If the county commissioners fail to appoint members to a committee, the appointments shall be made by the Office of the State Long-Term Care Ombudsman no sooner than 45 days after nominations have been requested from the adult care home administrators. In making appointments, the Office of the State Long-Term Care Ombudsman shall follow the same appointment process as that specified for the ~~County Commissioners~~ county commissioners.

(5) Notwithstanding any other provision of this Article, appointment to an ~~Adult Care Home Community Advisory Committee~~ adult care home community advisory committee is contingent upon designation of the appointee by the Office of the State Long-Term Care Ombudsman in accordance with G.S. 143B-181.18. A designated appointee is directly accountable to the State Long-Term Care Ombudsman Program in order to perform the duties as a representative of the Office of the State Long-Term Care Ombudsman. Removal of the appointee's designation by the Office of the State Long-Term

Care Ombudsman automatically rescinds the appointment to the ~~Adult Care Home Community Advisory Committee~~, adult care home community advisory committee.

(6) Any individual who serves as a community advisory committee member must go through the Office of the State Long-Term Care Ombudsman's certification and designation process and meet the certification and designation requirements in accordance with the State Long-Term Care Ombudsman Program Policies and Procedures.

(c) Joint Nursing and Adult Care Home Community Advisory Committees. – Appointment to the ~~Nursing Home Community Advisory Committees~~, nursing home community advisory committees shall preclude appointment to the ~~Adult Care Home Community Advisory Committees~~, adult care home community advisory committees except where written approval to combine these committees is obtained from the Office of the State Long-Term Care Ombudsman. Where this approval is obtained, the ~~Joint Nursing and Adult Care Home Community Advisory Committee~~, joint nursing and adult care home community advisory committee shall have the membership required of ~~Nursing Home Community Advisory Committees~~, nursing home community advisory committees and one additional member for each adult care home with 10 or more beds licensed in the county. In counties with no adult care homes with 10 or more beds, there shall be one additional member for every four other types of adult care homes in the county. In no case shall the number of members on the ~~Joint Nursing and Adult Care Home Community Advisory Committee~~, joint nursing and adult care home community advisory committee exceed 25. Each member shall exercise the statutory rights and responsibilities of both ~~Nursing Home Committees~~, nursing home community advisory committees and ~~Adult Care Home Committees~~, adult care home community advisory committees. In making appointments to this joint committee, the county commissioners shall solicit nominations from both nursing and adult care

home administrators for the appointment of approximately (but no more than) one-third of the members.

(d) Terms of Office. – Each committee member shall serve an initial term of one year. Any person reappointed to a second or subsequent term in the same county shall serve a two-or three-year term at the county commissioners' discretion to ensure staggered terms of office.

(e) Vacancies. – Any vacancy shall be filled by appointment of a person for a one-year term. If this vacancy is in a position filled by an appointee nominated by the chief administrators of adult care homes within the county, then the county commissioners shall fill the vacancy from persons nominated by a majority of the chief administrators. If the adult care home administrators fail to make a nomination by registered mail within 45 days after written notification has been sent to them requesting a nomination, this appointment may be made without nominations. If the county commissioners fail to fill a vacancy, the vacancy shall be filled by the Office of the State Long-Term Care Ombudsman no sooner than 45 days after the commissioners have been notified of the appointment or vacancy.

(f) Officers. – The committee shall elect from its members a chair, to serve a one-year term.

(g) Minimum Qualifications for Appointment. – Each member must be a resident of the county which the committee serves. No person or immediate family member of a person with a financial interest in a home served by the committee, or employee or governing board member of a home served by the committee, or immediate family member of a resident in a home served by the committee may be a member of that committee. Any county commissioner who is appointed to the committee ~~shall be deemed to be serving~~ serves on the committee in an ex officio capacity. Members of the committee shall serve without compensation, but may be reimbursed for actual expenses incurred by them in the performance of their duties. The names of the committee members and the date of expiration of their terms shall be filed with the Office of the State Long-Term Care Ombudsman.

1 (h) Training, Certification, and Designation. – The Office of the State Long-Term Care
2 Ombudsman shall develop training requirements for certification and designation in accordance
3 with 45 C.F.R. § 1324.13(c)(2). Each committee member must receive certification training as
4 specified by the State Long-Term Care Ombudsman Program Policies and Procedures and be
5 designated as representatives of the State Long-Term Care Ombudsman Program prior to
6 exercising any power under G.S. 131D-32. The State Long-Term Care Ombudsman Program
7 shall provide the committees with information, guidelines, training, and consultation to direct
8 them in the performance of their duties.

9 (i) Privilege. – Any written communication made by a member of an adult care home
10 advisory committee within the course and scope of the member's duties, as specified in
11 G.S. 131D-32, ~~shall be~~ is privileged to the extent provided in this subsection. All communication
12 ~~shall be considered~~ is the property of the Office of the State Long-Term Care Ombudsman and
13 is subject to the Office's disclosure policies. This privilege ~~shall be~~ is a defense in a cause of
14 action for libel if the member was acting in good faith and the statements and communications
15 do not amount to intentional wrongdoing.

16 To the extent that any adult care home advisory committee or any member is covered by
17 liability insurance, that committee or member shall be deemed to have waived the qualified
18 immunity ~~herein provided in this subsection~~ to the extent of indemnification by insurance."
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8. [15.]

"§ 136-18. Powers of Department of Transportation.

The said Department of Transportation is vested with has the following powers:

(1) The authority and general supervision over all matters relating to the construction, maintenance, and design of State transportation projects, letting of contracts therefor, and the selection of materials to be used in the construction of State transportation projects under the authority of this Chapter.

(2) Related to right-of-way:

a. To take over and assume exclusive control for the benefit of the State of any existing county or township roads.

- b. To locate and acquire rights-of-way for any new roads that may be necessary for a State highway system.

c. Subject to the provisions of G.S. 136-19.5(a) and (b), to use existing rights-of-way, or locate and acquire such additional rights-of-way, as may be necessary for the present or future relocation or initial location, above or below ground, ~~of~~ **of all of the following:**

1. Telephone, telegraph, distributed antenna systems (DAS), broadband communications, electric and other lines, as well as gas, water, sewerage, ~~oil~~oil, and other pipelines, to be operated by public utilities as defined in G.S. 62-3(23) and which are regulated under Chapter 62 of the General Statutes, or by municipalities, counties, any entity created by one or more political subdivisions for the purpose of supplying any such utility services, electric membership corporations, telephone

membership corporations, or any combination thereof;
and thereof.

2. Nonutility owned or operated communications or data transmission infrastructure.

The Department ~~retains full power to~~ may widen, relocate, ~~change~~ change, or alter the grade or location thereof, or alter the location or configuration of ~~such the~~ lines or systems above or below ground. No agreement for use of Department right-of-way under this sub-subdivision shall abrogate the Department's ownership and control of the right-of-way. The Department ~~is authorized to~~ may adopt policies and rules necessary to implement ~~the provisions of~~ this sub-subdivision.

- d. To change or relocate any existing roads that the Department of Transportation may now own or may acquire.
- e. To acquire by gift, purchase, or otherwise, any road or highway, or tract of land or other property whatsoever that may be necessary for a State transportation system and adjacent utility rights-of-way.

~~f. Provided, all changes or alterations authorized by this subdivision shall be subject to the provisions of G.S. 136-54 to 136-63, to the extent that said sections are applicable.~~

All changes or alterations authorized by this subdivision are subject to G.S. 136-54 to G.S. 136-63, to the extent that those sections are applicable.

~~g. Provided, that nothing in this Chapter shall be construed to authorize or permit the Department of Transportation to allow or pay anything to any county, township, city or town, or to any board of commissioners or governing body thereof, for any existing road or part~~

1 ~~of any road heretofore constructed by any such county, township, city~~
 2 ~~or town, unless a contract has already been entered into with the~~
 3 ~~Department of Transportation.~~

4 Nothing in this Chapter authorizes the Department of Transportation to
 5 allow or pay anything to any county, township, city, or town, or to any board
 6 of commissioners or governing body thereof, for any existing road or part of
 7 any road heretofore constructed by the county, township, city, or town, unless
 8 a contract has already been entered into with the Department of
 9 Transportation.

- 10 (3) To provide for such road materials as may be necessary to carry on the work
 11 of the Department of Transportation, either by gift, purchase, or
 12 ~~condemnation. Provided, that when condemnation.~~ When any person, ~~firm~~
 13 ~~firm,~~ or corporation owning a deposit of sand, ~~gravel-gravel,~~ or other ~~material,~~
 14 ~~necessary, material necessary~~ for the construction of the system of State
 15 highways ~~provided herein,~~ has entered into a contract to furnish the
 16 Department of Transportation any of such material, at a price to be fixed by
 17 ~~said the~~ Department of Transportation, thereafter the Department of
 18 Transportation ~~shall have the right to may~~ condemn the necessary
 19 right-of-way under ~~the provisions of~~ Article 9 of ~~Chapter 136,~~ this Chapter, to
 20 connect ~~said the~~ deposit with any part of the system of State highways or
 21 public ~~carrier, provided that easements~~ carrier. Easements to material
 22 ~~deposits, deposits~~ condemned under this Article shall not become a public
 23 road and the condemned easement shall be returned to the owner as soon as
 24 the deposits are exhausted or abandoned by the Department of Transportation.

- (4) To enforce by mandamus or other proper legal remedies all legal rights or causes of action of the Department of Transportation with other public bodies, corporations, or persons.
- (5) To make rules, ~~regulations~~ regulations, and ordinances for the use of, and to police traffic on, the State highways, and to prevent their abuse by individuals, ~~corporations~~ corporations, and public corporations, by trucks, tractors, ~~trailers~~ trailers, or other heavy or destructive vehicles or machinery, or by any other means whatsoever, and to provide ample means for the enforcement of ~~same~~; ~~and the~~ the rules, regulations, and ordinances. The violation of any of the rules, ~~regulations~~ regulations, or ordinances so prescribed by the Department of Transportation ~~shall constitute~~ constitutes a Class 1 ~~misdemeanor~~. ~~Provided,~~ ~~no~~ misdemeanor. ~~No rules, regulations or ordinances~~ rule, regulation, or ordinance shall be made that will conflict with **any statute now in force or** any ordinance of incorporated cities or towns, except the Department of Transportation may regulate parking upon any street which forms a link in the State highway system, if ~~said the~~ street be is maintained with State highway funds.
- (6) To establish a traffic census to secure information about the relative use, cost, value, importance, and necessity of roads forming a part of the State highway system, which information shall be a part of the public records of the State, and upon which information the Department of Transportation shall, after due deliberation and in accordance with these established facts, proceed to order the construction of the particular highway or highways.
- (7) To assume full and exclusive responsibility for the maintenance of all roads other than streets in towns and cities, forming a part of the State highway system from the date of acquiring ~~said the~~ roads. The Department of

Transportation ~~shall have authority to~~ may maintain all streets constructed by the Department of Transportation in towns of less than 3,000 population by the last census, and such other streets as may be constructed in towns and cities at the expense of the Department of Transportation, whenever in the opinion of the Department of Transportation it is necessary and proper so to do.

(8) To give suitable names to State highways and change the names as determined by the Board of Transportation of any highways that shall become a part of the State system of highways.

(9) To employ appropriate means for properly selecting, ~~planting~~ planting, and protecting trees, shrubs, vines, ~~grasses~~ grasses, or legumes in the highway right-of-way in the promotion of erosion control, ~~landscaping~~ landscaping, and general protection of ~~said the~~ highways; to acquire by gift or otherwise land for and to construct, ~~operate~~ operate, and maintain roadside parks, picnic areas, picnic tables, scenic ~~overlooks~~ overlooks, and other appropriate turnouts for the safety and convenience of highway users; and to cooperate with municipal or county authorities, federal agencies, civic ~~bodies~~ bodies, and individuals in the furtherance of those objectives. None of the roadside parks, picnic areas, picnic tables, scenic ~~overlooks~~ overlooks, or other turnouts, or any part of the highway right-of-way shall be used for commercial purposes except for any of the following:

a. Materials displayed in welcome centers in accordance with G.S. 136-89.56.

b. Vending machines permitted by the Department of Transportation and placed by the Division of Services for the ~~Blind,~~ Blind of the Department of Health and Human Services, as the State licensing

agency designated pursuant to Section 2(a)(5) of the Randolph-Sheppard Act (20 ~~USC~~U.S.C. § 107a(a)(5)). The Department of Transportation shall regulate the placing of the vending machines in highway rest areas and shall regulate the articles to be dispensed.

c. Activities permitted by a local government pursuant to an ordinance meeting the requirements of G.S. 136-27.4.

Every other use or attempted use of any of these areas for commercial purposes ~~shall constitute~~constitutes a Class 1 misdemeanor, and each day's use ~~shall constitute~~constitutes a separate offense.

(10) To make proper and reasonable rules, ~~regulations~~regulations, and ordinances for the placing or erection of telephone, telegraph, ~~electric~~electric, and other lines, above or below ground, wireless facilities, signboards, fences, gas, water, sewerage, oil, or other pipelines, and other similar obstructions that may, in the opinion of the Department of Transportation, contribute to the hazard upon any of the ~~said~~ highways or in any way interfere with the ~~same~~, highways, and to make reasonable rules and regulations for the proper control thereof. And whenever the order of the ~~said~~ Department of Transportation shall require the removal of, or changes in, the location of telephone, telegraph, ~~electric~~electric, or other lines, wireless facilities, signboards, fences, gas, water, sewerage, oil, or other pipelines, or other similar obstructions, the owners thereof shall at their own expense, except as provided in G.S. 136-19.5(c), move or change ~~the same~~them to conform to the order of ~~said~~the Department of Transportation. Any violation of ~~such~~these rules and regulations or noncompliance with ~~such~~these orders ~~shall constitute~~

constitutes a Class 1 misdemeanor. For purposes of this subdivision, "wireless facilities" ~~shall have~~ has the definition set forth in G.S. 160A-400.51.

(11) To regulate, ~~abandon~~ abandon, and close to ~~use~~ use grade crossings on any road designated as part of the State highway system, and whenever a public highway has been designated as part of the State highway system and the Department of Transportation, in order to avoid a grade crossing or crossings with a railroad or railroads, continues or constructs the ~~said~~ road on one side of the railroad or railroads, the Department of Transportation ~~shall have power~~ to may abandon and close to use ~~such the~~ such the grade crossings; and whenever an underpass or overhead bridge is substituted for a grade crossing, the Department of Transportation ~~shall have power to may~~ close to use and abandon ~~such the~~ such the grade crossing and any other ~~crossing adjacent thereto~~ adjacent crossing.

(12) The Department of Transportation ~~shall have~~ has such powers as are necessary to comply fully with the provisions of the Intermodal Surface Transportation Efficiency Act of 1991, Pub. L. No. 102-240, 105 Stat. 1914 (1991), as amended, and all other federal aid acts and programs the Department is authorized to administer. The ~~said~~ Department of Transportation ~~is hereby~~ authorized to may enter into all contracts and agreements with the United States government relating to survey, construction, improvement and maintenance of roads, urban area traffic operations ~~studies~~ studies, and improvement projects on the streets on the State highway system and on the municipal system in urban areas, under the provisions of the present or future congressional enactments, to submit such scheme or program of construction or improvement and maintenance as may be required by the Secretary of Transportation or otherwise provided by federal acts, and to do all other ~~things~~ things.

1 ~~acts~~ necessary to carry out fully the cooperation contemplated and provided
2 for by present or future aid acts of Congress for the construction or
3 improvement and maintenance of federal aid of State highways. The good
4 faith and credit of the State are further ~~hereby~~ pledged to make available funds
5 necessary to meet the requirements of the acts of Congress, present or future,
6 appropriating money to construct and improve rural post roads and
7 apportioned to this State during each of the years for which federal funds are
8 now or may hereafter be apportioned by the ~~said~~ act or acts, to maintain the
9 roads constructed or improved with the aid of funds so appropriated and to
10 make adequate provisions for carrying out ~~such~~ the construction and
11 maintenance. The good faith and credit of the State are further pledged to
12 maintain ~~such~~ the roads now built with federal aid and hereafter to be built
13 and to make adequate provisions for carrying out ~~such~~ the maintenance. Upon
14 request of the Department of Transportation and in order to enable it to meet
15 the requirements of acts of Congress with respect to federal aid funds
16 apportioned to the State of North Carolina, the State Treasurer ~~is hereby~~
17 ~~authorized, may,~~ with the approval of the Governor and Council of State, ~~to~~
18 issue short term notes from time to time, and in anticipation of State highway
19 revenue, and to be payable out of State highway revenue for such sums as may
20 be necessary to enable the Department of Transportation to meet the
21 requirements of ~~said~~ the federal aid appropriations, but in no event shall the
22 outstanding notes under the provisions of this section amount to more than
23 two million dollars (\$2,000,000).

24 (12a) The Department of Transportation ~~shall have~~ has such powers as are necessary
25 to establish, administer, and receive federal funds for a transportation
26 infrastructure banking program as authorized by the Intermodal Surface

1 Transportation Efficiency Act of 1991, Pub. L. 102-240, as amended, and the
2 National Highway System Designation Act of 1995, Pub. L. 104-59, as
3 amended. The Department of Transportation ~~is authorized to may~~ apply for,
4 receive, administer, and comply with all conditions and requirements related
5 to federal financial assistance necessary to fund the infrastructure banking
6 program. The infrastructure banking program established by the Department
7 of Transportation may utilize federal and available State funds for the purpose
8 of providing loans or other financial assistance to governmental units,
9 including toll authorities, to finance the costs of transportation projects
10 authorized by the ~~above~~-federal aid ~~acts~~: acts referenced in this subdivision.
11 Such loans or other financial assistance shall be subject to repayment and
12 conditioned upon the establishment of such security and the payment of such
13 fees and interest rates as the Department of Transportation may deem
14 necessary. The Department of Transportation ~~is authorized to may~~ apply a
15 municipality's share of funds allocated under G.S. 136-41.1 or G.S. 136-44.20
16 as necessary to ensure repayment of funds advanced under the infrastructure
17 banking program. The Department of Transportation shall establish jointly,
18 with the State Treasurer, a separate infrastructure banking account with
19 necessary fiscal controls and accounting procedures. Funds credited to this
20 account shall not revert, and interest and other investment income shall accrue
21 to the account and may be used to provide loans and other financial assistance
22 as provided under this subdivision. The Department of Transportation may
23 establish such rules and policies as are necessary to establish and administer
24 the infrastructure banking program. The infrastructure banking program
25 authorized under this subdivision shall not modify the formula for the
26 distribution of funds established by G.S. 136-189.11. Governmental units may

1 apply for loans and execute debt instruments payable to the State in order to
 2 obtain loans or other financial assistance provided for in this subdivision. The
 3 Department of Transportation shall require that applicants ~~shall~~ pledge as
 4 security for ~~such~~ the obligations revenues derived from operation of the
 5 benefited facilities or systems, other sources of revenue, or their faith and
 6 credit, or any combination thereof. The faith and credit of ~~such~~ the
 7 governmental units shall not be pledged or be deemed to have been pledged
 8 unless the requirements of ~~Article 4,~~ Article 4 of Chapter 159 of the General
 9 Statutes have been met. The State Treasurer, with the assistance of the Local
 10 Government Commission, shall develop and adopt appropriate debt
 11 instruments for use under this subdivision. The Local Government
 12 Commission shall develop and adopt appropriate procedures for the delivery
 13 of debt instruments to the State without any public bidding therefor. The Local
 14 Government Commission shall review and approve proposed loans to
 15 applicants pursuant to this subdivision under the provisions of ~~Articles 4 and~~
 16 ~~5,~~ Articles 4 and 5 of Chapter 159 of the General Statutes, as if the issuance
 17 of bonds was proposed, so far as those provisions are applicable. Loans
 18 authorized by this subdivision ~~shall be~~ are outstanding debt for the purpose of
 19 ~~Article 10,~~ Article 10 of Chapter 159 of the General Statutes.

20 (12b) To issue "GARVEE" bonds (Grant Anticipation Revenue Vehicles) or other
 21 eligible debt-financing instruments to finance federal-aid highway projects
 22 using federal funds to pay a portion of principal, interest, and related bond
 23 issuance costs, as authorized by 23 U.S.C. § 122, as amended (the National
 24 Highway System Designation Act of 1995, Pub. L. 104-59). These bonds shall
 25 be issued by the State Treasurer on behalf of the Department and shall be
 26 issued pursuant to an order adopted by the Council of State under G.S. 159-88.

1 The State Treasurer shall develop and adopt appropriate debt instruments,
2 consistent with the terms of the State and Local Government Revenue Bond
3 Act, Article 5 of Chapter 159 of the General Statutes, for use under this
4 subdivision. Prior to issuance of any "GARVEE" or other eligible debt
5 instrument using federal funds to pay a portion of principal, interest, and
6 related bond issuance costs, the State Treasurer shall determine (i) that the
7 total outstanding principal of ~~such~~the debt does not exceed the total amount
8 of federal transportation funds authorized to the State in the prior federal fiscal
9 year; or (ii) that the maximum annual principal and interest of ~~such~~the debt
10 does not exceed fifteen percent (15%) of the expected average annual federal
11 revenue shown for the period in the most recently adopted Transportation
12 Improvement Program. Notes issued under the provisions of this subdivision
13 ~~may~~shall not be deemed to constitute a debt or liability of the State or of any
14 political subdivision thereof, or a pledge of the full faith and credit of the State
15 or of any political subdivision thereof, but shall be payable solely from the
16 funds and revenues pledged therefor. All the notes shall contain on their face
17 a statement to the effect that the State of North Carolina ~~shall not be~~is not
18 obligated to pay the principal or the interest on the notes, except from the
19 federal transportation fund revenues as shall be provided by the documents
20 governing the revenue note issuance, and that neither the faith and credit nor
21 the taxing power of the State of North Carolina or of any of its political
22 subdivisions is pledged to the payment of the principal or interest on the notes.
23 The issuance of notes under this Part ~~shall~~does not directly or indirectly or
24 contingently obligate the State or any of its political subdivisions to levy or to
25 pledge any form of taxation whatever or to make any appropriation for their
26 payment.

- (13) ~~The Department of Transportation may To~~ construct and maintain all walkways and driveways within the Mansion Square in the City of Raleigh and the Western Residence of the Governor in the City of Asheville including the approaches connecting with the city streets, and any funds expended therefor shall be a charge against general maintenance.
- (14) ~~The Department of Transportation shall have authority to To~~ provide roads for the connection of airports in the State with the public highway system, and to mark the highways and erect signals along the ~~same highways~~ for the guidance and protection of aircraft.
- (15) ~~The Department of Transportation shall have authority to To~~ provide facilities for the use of waterborne traffic and recreational uses by establishing connections between the highway system and the navigable and nonnavigable waters of the State by means of connecting roads and piers. ~~Such The~~ facilities for recreational purposes shall be funded from funds available for safety or enhancement purposes.
- (16) The Department of Transportation, pursuant to a resolution of the Board of Transportation, ~~shall have authority, may,~~ under the power of eminent domain and under the same procedure as provided for the acquirement of rights-of-way, ~~to~~ acquire title in fee simple to parcels of land for the purpose of exchanging the ~~same parcels of land~~ for other real property to be used for the establishment of rights-of-way or for the widening of existing rights-of-way or the clearing of obstructions that, in the opinion of the Department of Transportation, constitute dangerous hazards at intersections. Real property may be acquired for ~~such these~~ purposes only when the owner of the property needed by the Department of Transportation has agreed in writing to accept the property so acquired in exchange for that to be used by

the Department of Transportation, and when, in the opinion of the Department of Transportation, an economy in the expenditure of public funds and the improvement and convenience and safety of the highway can be effected thereby.

(17) The Department of Transportation ~~is hereby authorized and required to shall~~ maintain and keep in repair, sufficient to accommodate the public school buses, roads leading from the ~~state-maintained~~ State-maintained public roads to all public schools and public school buildings to which children are transported on public school buses to and from their homes. ~~Said~~ The Department of Transportation ~~is further authorized to may~~ construct, pave, and maintain school bus driveways and sufficient parking facilities for the school buses at those schools. The Department of Transportation ~~is further authorized to may~~ construct, pave, and maintain all other driveways and entrances to the public schools leading from public roads not required in the preceding portion of this subdivision.

(18) To cooperate with appropriate agencies of the United States in acquiring rights-of-way for and in the construction and maintenance of flight strips or emergency landing fields for aircraft adjacent to State highways.

(19) To prohibit the erection of any informational, regulatory, or warning signs within the right-of-way of any highway project built within the corporate limits of any municipality in the State where the funds for ~~such~~ the construction are derived in whole or in part from federal appropriations expended by the Department of Transportation, unless ~~such~~ the signs have first been approved by the Department of Transportation.

(20) ~~The Department of Transportation is hereby authorized to~~ To maintain and keep in repair a suitable way of ingress and egress to all public or church

cemeteries or burial grounds in the State notwithstanding the fact that ~~said the~~
road is not a part of the ~~state-maintained~~ State-maintained system of roads.
For the purpose of this subdivision a public or church cemetery or burial
ground ~~shall be~~ is defined as a cemetery or burial ground in which there are
buried or permitted to be buried deceased persons of the community in which
~~said the~~ cemetery or burial ground is located, but ~~shall~~ does not mean a
privately owned cemetery operated for profit or family burial plots.

(21) The Department of Transportation ~~is hereby authorized and directed to shall~~
remove all dead animals from the traveled portion and rights-of-way of all
primary and secondary roads and to dispose of ~~such the~~ animals by burial or
otherwise. In cases where there is evidence of ownership upon the body of any
dead dog, the Department of Transportation shall take reasonable steps to
notify the owner thereof by mail or other means.

(22) No airport or aircraft landing area shall be constructed or altered where ~~such~~
the construction or alteration when undertaken or completed may reasonably
affect motor vehicle operation and safety on adjoining public roads except in
accordance with a written permit from the Department of Transportation or its
duly authorized officers. The Department of Transportation ~~is authorized and~~
~~empowered to may~~ regulate airport and aircraft landing area construction and
alteration in order to preserve safe clearances between highways and airways
and the Department of Transportation ~~is authorized and empowered to may~~
make rules, regulations, and ordinances for the preservation of safe clearances
between highways and airways. The Department of Transportation ~~shall be is~~
responsible for determining safe clearances and shall fix standards for ~~said~~
this determination which shall not exceed the standards adopted for similar
purposes by the United States Bureau of Public Roads under the Federal Aid

Highway Act of 1958. Any person, firm, ~~corporation~~ corporation, or airport authority constructing or altering an airport or aircraft landing area without obtaining a written permit as ~~herein provided~~, provided in this subdivision, or not in compliance with the terms of ~~such the~~ permit, or violating the provisions of the rules, ~~regulations~~ regulations, or ordinances promulgated under the authority of this section ~~shall be~~ is guilty of a Class 1 ~~misdemeanor~~, ~~provided, that this misdemeanor. This subdivision shall does not~~ apply to publicly owned and operated airports and aircraft landing areas receiving federal funds and subject to regulation by the Federal Aviation Authority.

- (23) When in the opinion of the Department of Transportation an economy in the expenditure of public funds can be effected thereby, the Department of Transportation ~~shall have authority to~~ may enter into agreements with adjoining states regarding the planning, location, engineering, right-of-way ~~acquisition~~ acquisition, and construction of roads and bridges connecting the North Carolina State highway system with public roads in adjoining states, and the Department of Transportation ~~shall have authority to~~ may do planning, surveying, locating, engineering, right-of-way ~~acquisition~~ acquisition, and construction on short segments of roads and bridges in adjoining states with the cost of ~~said the~~ work to be reimbursed by the adjoining state, and may also enter into agreements with adjoining states providing for the performance of and reimbursement to the adjoining state of the cost of ~~such the~~ work done ~~within the this State of North Carolina~~ by the adjoining state: ~~Provided, that the state. The~~ Department of Transportation shall retain the right to approve any contract for work to be done in this State by an adjoining state for which the adjoining state is to be reimbursed.

- (24) ~~The Department of Transportation is further authorized to~~ To pave driveways leading from ~~state-maintained~~ State-maintained roads to rural fire district firehouses which are approved by the North Carolina Fire Insurance Rating Bureau and to facilities of rescue squads furnishing ambulance services which are approved by the North Carolina State Association of Rescue Squads, Inc.
- (25) The Department of Transportation ~~is hereby authorized and directed to shall~~ design, construct, repair, and maintain paved streets and roads upon the campus of each of the State's institutions of higher education, at ~~state-owned~~ State-owned hospitals for the treatment of tuberculosis, ~~state-owned~~ State-owned orthopedic hospitals, juvenile correction centers, mental health hospitals and ~~retarded centers,~~ developmental centers, schools for the deaf, and schools for the blind, when such construction, maintenance, or repairs have been authorized by the General Assembly in the appropriations bills enacted by the General Assembly. Cost for ~~such the~~ construction, maintenance, and repairs shall be borne by the Highway Fund. Upon the General Assembly authorizing the construction, repair, or maintenance of a paved road or drive upon any of the ~~above-mentioned institutions,~~ institutions listed in this subdivision, the Department of Transportation shall give ~~such the~~ project priority to ~~insure~~ ensure that it shall be accomplished as soon as feasible, at the minimum cost to the State, and in any event during the biennium for which the authorization ~~shall have~~ has been given by the General Assembly.
- (26) The Department of Transportation, at the request of a representative from a board of county commissioners, ~~is hereby authorized to may~~ acquire by condemnation new or additional right-of-way to construct, ~~pave-pave,~~ or otherwise improve a designated State-maintained secondary road upon

1 presentation by ~~said the~~ board to the Department of Transportation of a duly
 2 verified copy of the minutes of its meeting showing approval of ~~such the~~
 3 request by a majority of its members and by the further presentation of a
 4 petition requesting ~~such the~~ improvement executed by the abutting owners
 5 whose frontage on ~~said the~~ secondary road ~~shall equal or exceed equals or~~
 6 exceeds seventy-five percent (75%) of the linear front footage along the
 7 secondary road sought to be improved. This subdivision ~~shall not be construed~~
 8 ~~to does not~~ limit the authority of the Department of Transportation to exercise
 9 the power of eminent domain.

10 (27) ~~The Department of Transportation is authorized to To~~ establish policies and
 11 promulgate rules providing for voluntary local government, property ~~owner~~
 12 owner, or highway user participation in the costs of maintenance or
 13 improvement of roads which would not otherwise be necessary or would not
 14 otherwise be performed by the Department of Transportation and which will
 15 result in a benefit to the property owner or highway user. By way of
 16 illustration and not as a limitation, ~~such these~~ costs include those incurred in
 17 connection with drainage improvements or maintenance, driveway
 18 connections, dust control on unpaved roads, surfacing or paving of roads and
 19 the acquisition of rights-of-way. Local government, property ~~owner owner,~~
 20 and highway user participation can be in the form of materials, money, or land
 21 (for right-of-way) as deemed appropriate by the Department of
 22 Transportation. The authority of this section shall not be used to authorize,
 23 ~~construct construct,~~ or maintain toll roads or bridges.

24 (28) ~~The Department of Transportation may To~~ obtain land, either by gift, ~~lease~~
 25 lease, or ~~purchase purchase,~~ which shall be used for the construction and

1 maintenance of ridesharing parking lots. The Department may design,
 2 construct, repair, and maintain ridesharing parking facilities.

3 (29) ~~The Department of Transportation may To~~ establish policies and adopt rules
 4 about the size, location, direction of traffic flow, and the construction of
 5 driveway connections into any street or highway which is a part of the State
 6 Highway System. The Department of Transportation may require the
 7 construction and public dedication of acceleration and deceleration lanes, and
 8 traffic storage lanes and medians by others for the driveway connections into
 9 any United States route, or North Carolina route, and on any secondary road
 10 route with an average daily traffic volume of 4,000 vehicles per day or more.

11 (29a) To coordinate with all public and private entities planning schools to provide
 12 written recommendations and evaluations of driveway access and traffic
 13 operational and safety impacts on the State highway system resulting from the
 14 development of the proposed sites. All public and private entities shall, upon
 15 acquiring land for a new school or prior to beginning construction of a new
 16 school, relocating a school, or expanding an existing school, request from the
 17 Department a written evaluation and written recommendations to ensure that
 18 all proposed access points comply with the criteria in the current North
 19 Carolina Department of Transportation "Policy on Street and Driveway
 20 ~~Access". Access.~~ The Department shall provide the written evaluation and
 21 recommendations within a reasonable time, which shall not exceed 60 days.
 22 This subdivision applies to improvements that are not located on the school
 23 property. The Department ~~shall have~~ has the power to grant final approval of
 24 any project design under this subdivision. To facilitate completion of the
 25 evaluation and recommendations within the required 60 days, in lieu of the
 26 evaluation by the Department, schools may engage an independent traffic

1 engineer prequalified by the Department. The resulting evaluation and
2 recommendations from the independent traffic engineer shall also fulfill any
3 similar requirements imposed by a unit of local government. This subdivision
4 ~~shall not be construed to~~ does not require the public or private entities planning
5 schools to meet the recommendations made by the Department or the
6 independent traffic engineer, except those highway improvements that are
7 required for safe ingress and egress to the State highway system, pursuant to
8 subdivision (29) of this section, and that are physically connected to a
9 driveway on the school property. The total cost of any improvements to the
10 State highway system provided by a school pursuant to this subdivision,
11 including those improvements pursuant to subdivision (29) of this section,
12 shall be reimbursed by the Department. Any agreement between a school and
13 the Department to make improvements to the State highway system shall not
14 include a requirement for acquisition of right-of-way by the school, unless the
15 school is owned by an entity that has eminent domain power. Nothing in this
16 subdivision ~~shall preclude~~ precludes the Department from entering into an
17 agreement with the school whereby the school installs the agreed upon
18 improvements and the Department provides full reimbursement for the
19 associated costs incurred by the school, including design fees and any costs of
20 right-of-way or easements. The term "school," as used in this subdivision,
21 means any facility engaged in the educational instruction of children in any
22 grade or combination of grades from kindergarten through the twelfth grade
23 at which attendance satisfies the compulsory attendance law and includes
24 charter schools authorized under G.S. 115C-218.5. The term "improvements,"
25 as used in this subdivision, refers to all facilities within the right-of-way
26 required to be installed to satisfy the road cross-section requirements depicted

upon the approved plans. These facilities ~~shall~~ include roadway construction, including pavement installation and medians; ditches and shoulders; storm drainage pipes, culverts, and related appurtenances; and, where required, curb and gutter; signals, including pedestrian safety signals; street lights; sidewalks; and design fees. Improvements ~~shall~~ do not include any costs for public utilities.

(29b) The Department of Transportation shall consider exceptions to the sight distance requirement for driveway locations in instances where the curves of the road are close and frequent. Exceptions shall be granted in instances where sufficient sight distance can be provided or established through other means such as advisory speed signs, convex mirrors, and advanced warning signs. When appropriate, the Department shall consider lowering the speed limit on the relevant portion of the road. The Department may require a driveway permit applicant to cover the cost of installing the appropriate signage around the driveway, including speed limit reduction and driveway warning signs, and may also require the applicant to install and maintain convex or other mirrors to increase the safety around the driveway location.

This subdivision applies only to sections of roadway where the minimum sight distance as defined in the published "Policy on Street and Driveway Access to North Carolina Highways" is not available for a proposed driveway.

(30) Consistent with G.S. 130A-309.14(a1), the Department of Transportation shall review and revise its bid procedures and specifications set forth in ~~Chapter 136 of the General Statutes~~ this Chapter to encourage the purchase or use of reusable, refillable, repairable, more durable, and less toxic supplies and products. The Department of Transportation shall require the purchase or use of ~~such~~ these supplies and products in the construction and maintenance

of highways and bridges to the extent that the use is practicable and cost-effective. The Department shall prepare an annual report on October 1 of each year to the Environmental Review Commission as required under G.S. 130A-309.14(a1).

- (31) ~~The Department of Transportation is authorized to~~ To designate portions of highways as scenic highways, and combinations of portions of highways as scenic byways, for portions of those highways that possess unusual, exceptional, or distinctive scenic, recreational, historical, educational, scientific, geological, natural, wildlife, ~~cultural~~ cultural, or ethnic features. The Department shall remove, upon application, from any existing or future scenic highway or scenic byway designation, highway sections ~~that that meet~~ all of the following:

- a. Have no scenic ~~value, value.~~
- b. Have been designated or would be so designated solely to preserve system ~~continuity, and~~ continuity.
- c. Are adjacent to property on which is located one or more permanent structures devoted to a commercial or industrial activity and on which a commercial or industrial activity is actually conducted, in an unzoned area or an area zoned commercial or industrial pursuant to a State or local zoning ordinance or regulation, except for commercial activity related to tourism or recreation.

The Department shall adopt rules and regulations setting forth the criteria and procedures for the designation of scenic highways and scenic byways under this ~~subsection~~ subdivision.

Those portions of highways designated as scenic by the Department prior to July 1, 1993, are considered to be designated as scenic highways and scenic

byways under this ~~subsection-subdivision~~, but the Department shall remove from this designation portions of those highway sections that meet the criteria set forth in this ~~subsection, subdivision~~, if requested.

(32) ~~The Department of Transportation may To~~ perform dredging services, on a cost reimbursement basis, for a unit of local government if the unit cannot obtain the services from a private company at a reasonable cost. A unit of local government is considered to be unable to obtain dredging services at a reasonable cost if it solicits bids for the dredging services in accordance with Article 8 of Chapter 143 of the General Statutes and does not receive a bid, considered by the Department of Transportation Engineering Staff, to be reasonable.

(33) The Department of Transportation ~~is empowered and directed, shall,~~ from time to time, ~~to~~ carefully examine into and inspect the condition of each railroad, its equipment and facilities, in regard to the safety and convenience of the public and the railroad employees. If the Department finds any equipment or facilities to be unsafe, it shall at once notify the railroad company and require the company to repair the equipment or facilities.

(34) ~~The Department of Transportation may To~~ conduct, in a manner consistent with federal law, a program of accident prevention and public safety covering all railroads and ~~may to~~ investigate the cause of any railroad accident. In order to facilitate this program, any railroad involved in an accident that must be reported to the Federal Railroad Administration shall also notify the Department of Transportation of the occurrence of the accident.

(35) To establish rural planning organizations, as provided in Article 17 of this Chapter.

1 (36) The Department ~~shall have~~ has the following powers related to fixed guideway
2 public transportation system safety:

3 a. To oversee the safety of fixed guideway public transportation systems
4 in the State not regulated by the Federal Railroad Administration,
5 pursuant to 49 U.S.C. § 5329 and 49 U.S.C. § 5330 and any
6 reauthorizations of or amendments to those sections. The Department
7 shall adopt rules in conformance with 49 U.S.C. § 5329 and 49 U.S.C.
8 § 5330 concerning its oversight of the safety of fixed guideway public
9 transportation systems.

10 b. The Department shall examine and inspect the condition of each rail
11 fixed guideway public transportation system and its equipment and
12 facilities for the purpose of ensuring the safety and convenience of the
13 public and the rail fixed guideway public transportation system's
14 employees. If the Department finds any equipment or facilities to be
15 unsafe, it shall at once notify the rail fixed guideway public
16 transportation system and require the rail fixed guideway public
17 transportation system to repair the equipment or facilities.

18 c. ~~The Department may~~ To conduct, in a manner consistent with federal
19 law, a program of accident prevention and public safety covering all
20 rail fixed guideway public transportation systems and ~~may to~~
21 investigate the cause of any rail fixed guideway public transportation
22 system accident. In order to facilitate this program, any rail fixed
23 guideway public transportation system involved in an accident
24 meeting the reporting thresholds defined by the Department shall
25 report the accident to the Department.

- d. The Department shall review, approve, oversee, and enforce each rail fixed guideway public transportation system's implementation of the public transportation system safety plan required pursuant to 49 U.S.C. § 5329(d).
- e. The Department shall audit, at least once triennially, each rail fixed guideway public transportation system's compliance with the public transportation agency safety plan required pursuant to 49 U.S.C. § 5329(d).
- f. The Department shall provide, at least once annually, a status report on the safety of the rail fixed guideway public transportation systems overseen by the Department to the Federal Transit Administration, the Governor, and the Board of Directors, or equivalent entity, of any rail fixed guideway public transportation system the Department oversees.
- g. The Department shall not receive funding for the activities authorized by sub-subdivisions a. through f. of this subdivision from any rail fixed guideway public transportation systems subject to the Department's authority pursuant to ~~the provisions of~~ sub-subdivisions a. through f. of this subdivision.

(37) To permit use of and encroachment upon the right-of-way of a State highway or road for the purpose of construction and maintenance of a bridge owned by a private or public entity, if the bridge ~~shall~~does not unreasonably interfere with or obstruct the public use of the right-of-way. Any agreement for an encroachment authorized by this subdivision shall be approved by the Board of Transportation, upon a finding that the encroachment is necessary and appropriate, in the sole discretion of the Board. Locations, plans, and specifications for any pedestrian or vehicular bridge authorized by the Board

for construction pursuant to this subdivision shall be approved by the Department of Transportation. For any bridge subject to this subdivision, the Department shall retain the right to reject any plans, specifications, or materials used or proposed to be used, inspect and approve all materials to be used, inspect the construction, maintenance, or repair, and require the replacement, reconstruction, repair, or demolition of any partially or wholly completed bridge that, in the sole discretion of the Department, is unsafe or substandard in design or construction. An encroachment agreement authorized by this subdivision may include a requirement to purchase and maintain liability insurance in an amount determined by the Department of Transportation. The Department shall ensure that any bridge constructed pursuant to this subdivision is regularly inspected for safety. The owner shall have the bridge inspected every two years by a qualified private engineering firm based on National Bridge Inspection Standards and shall provide the Department copies of the ~~Bridge Inspection Reports~~ bridge inspection reports where they shall be kept on file. Any bridge authorized and constructed pursuant to this subdivision ~~shall be~~ is subject to all other rules and conditions of the Department of Transportation for encroachments.

- (38) To enter into agreements with municipalities, counties, governmental entities, or nonprofit corporations to receive funds for the purposes of advancing right-of-way acquisition or the construction schedule of a project identified in the Transportation Improvement Program. If these funds are subject to repayment by the Department, prior to receipt of funds, reimbursement of all funds received by the Department shall be shown in the existing Transportation Improvement Program and shall be reimbursed within the period of the existing Transportation Improvement Program.

(39) To enter into partnership agreements with private entities, and authorized political subdivisions to finance, by tolls, contracts, and other financing methods authorized by law, the cost of acquiring, constructing, equipping, maintaining, and operating transportation infrastructure in this State, and to plan, design, develop, acquire, construct, equip, maintain, and operate transportation infrastructure in this State. An agreement entered into under this subdivision requires the concurrence of the Board of Transportation. The Department shall report to the Chairs of the Joint Legislative Transportation Oversight Committee, the Chairs of the House of Representatives Appropriations ~~Subcommittee~~ Committee on Transportation, and the Chairs of the Senate Appropriations Committee on the Department of Transportation, at the same time it notifies the Board of Transportation of any proposed agreement under this subdivision. No contract for transportation infrastructure subject to ~~such~~ an agreement under this subdivision that commits the Department to make nonretainage payments for undisputed capital costs of a completed transportation infrastructure to be made later than 18 months after final acceptance by the Department of ~~such~~ the transportation infrastructure shall be executed without approval of the Local Government Commission. Any contracts for construction of highways, roads, streets, and bridges which are awarded pursuant to an agreement entered into under this section shall comply with the competitive bidding requirements of Article 2 of this Chapter.

(39a) a. The Department of Transportation or Turnpike Authority, as applicable, may enter into up to three agreements with a private entity as provided under subdivision (39) of this section for which the provisions of this section apply.

- b. A private entity or its contractors must provide performance and payment security in the form and in the amount determined by the Department of Transportation. The form of the performance and payment security may consist of bonds, letters of credit, parent guaranties, or other instruments acceptable to the Department of Transportation.
- c. Notwithstanding the provisions of G.S. 143B-426.40A, an agreement entered into under this subdivision may allow the private entity to assign, transfer, sell, hypothecate, and otherwise convey some or all of its right, title, and interest in and to ~~such~~ the agreement, and any rights and remedies thereunder, to a lender, bondholder, or any other party. However, in no event shall any such assignment create additional debt or debt-like obligations of the State of North Carolina, the Department, or any other agency, authority, commission, or similar subdivision of the State to any lender, bondholder, entity purchasing a participation in the right to receive the payment, trustee, trust, or any other party providing financing or funding of projects described in this section. ~~The foregoing shall~~ This sub-subdivision does not preclude the Department from making any payments due and owing pursuant to an agreement entered into under this section.
- d. Article 6H of ~~Chapter 136 of the General Statutes shall apply this~~ Chapter applies to the Department of Transportation and to projects undertaken by the Department of Transportation under subdivision (39) of this section. The Department may assign its authority under that Article to fix, revise, charge, retain, enforce, and collect tolls and fees to the private entity.

e. Any contract under this subdivision or under Article 6H of this Chapter for the development, construction, maintenance, or operation of a project shall provide for revenue sharing, if applicable, between the private party and the Department, and revenues derived from ~~such the~~ project may be used as set forth in G.S. 136-89.188(a), notwithstanding the provisions of G.S. 136-89.188(d). Excess toll revenues from a Turnpike ~~project~~ Project shall be used for the funding or financing of transportation projects within the corridor where the Turnpike Project is located. For purposes of this subdivision, the term "excess toll revenues" means those toll revenues derived from a Turnpike Project that are not otherwise used or allocated to the Authority or a private entity pursuant to this subdivision, notwithstanding the provisions of G.S. 136-89.188(d). For purposes of this subdivision, the term "corridor" means (i) the right-of-way limits of the Turnpike Project and any facilities related to the Turnpike Project or any facility or improvement necessary for the use, design, construction, operation, maintenance, repair, rehabilitation, reconstruction, or financing of a Turnpike Project; (ii) the right-of-way limits of any subsequent improvements, additions, or extension to the Turnpike Project and facilities related to the Turnpike projects, including any improvements necessary for the use, design, construction, operation, maintenance, repair, rehabilitation, reconstruction, or financing of those subsequent improvements, additions, or extensions to the Turnpike Project; and (iii) roads used for ingress or egress to the toll facility or roads that intersect with the

1 toll facility, whether by ramps or separated grade facility, and located
 2 within one mile in any direction.

3 f. Agreements entered into under this subdivision shall comply with the
 4 following additional provisions:

- 5 1. The Department shall solicit proposals for agreements.
- 6 2. ~~Agreement~~ The agreement shall be limited to no more than 50
 7 years from the date of the beginning of operations on the toll
 8 facility.
- 9 3. Notwithstanding the provisions of G.S. 136-89.183(a)(5), all
 10 initial tolls or fees to be charged by a private entity shall be
 11 reviewed by the Turnpike Authority Board. Prior to setting toll
 12 rates, either a set rate or a minimum and maximum rate set by
 13 the private entity, the private entity shall hold a public hearing
 14 on the toll rates, including an explanation of the toll setting
 15 methodology, in accordance with guidelines for the hearing
 16 developed by the Department. After tolls go into effect, the
 17 private entity shall report to the Turnpike Authority Board 30
 18 days prior to any increase in toll rates or change in the toll
 19 setting methodology by the private entity from the previous toll
 20 rates or toll setting methodology last reported to the Turnpike
 21 Authority Board.
- 22 4. Financial advisors and attorneys retained by the Department on
 23 contract to work on projects pursuant to this subsection ~~shall~~
 24 ~~be~~ are subject to State law governing conflicts of interest.
- 25 5. 60 days prior to the signing of a concession agreement subject
 26 to this subdivision, the Department shall report to the Joint

Legislative Transportation Oversight Committee on the
following for the presumptive concessionaire:

- I. Project description.
- II. Number of years that tolls will be in place.
- III. Name and location of firms and parent companies, if applicable, including firm responsibility and stake, and assessment of audited financial statements.
- IV. Analysis of firm selection criteria.
- V. Name of any firm or individual under contract to provide counsel or financial analysis to the Department or Authority. The Department shall disclose payments to these contractors related to completing the agreement under this subdivision.
- VI. Demonstrated ability of the project team to deliver the project, by evidence of the project team's prior experience in delivering a project on schedule and budget, and disclosure of any unfavorable outcomes on prior projects.
- VII. Detailed description of method of finance, including sources of funds, State contribution amounts, including schedule of availability payments and terms of debt payments.
- VIII. Information on assignment of risk shared or assigned to State and private partner.
- IX. Information on the feasibility of finance as obtained in traffic and revenue studies.

1 6. The Turnpike Authority annual report under G.S. 136-89.193
2 shall include reporting on all revenue collections associated
3 with projects subject to this subdivision under the Turnpike
4 Authority.

5 7. The Department shall develop standards for entering into
6 comprehensive agreements with private entities under the
7 authority of this subdivision and report those standards to the
8 Joint Legislative Transportation Oversight Committee on or
9 before October 1, 2013.

10 (40) To expand public access to coastal waters in its road project planning and
11 construction programs. The Department shall work with the Wildlife
12 Resources Commission, other State agencies, and other government entities
13 to address public access to coastal waters along the roadways, bridges, and
14 other transportation infrastructure owned or maintained by the Department.
15 The Department shall adhere to all applicable design standards and guidelines
16 in implementation of this enhanced access.

17 (41) The Department shall, prior to the beginning of construction, determine
18 whether all sidewalks and other facilities primarily intended for the use of
19 pedestrians and bicycles that are to be constructed within the right-of-way of
20 a public street or highway that is a part of the State highway system or an
21 urban highway system must be constructed of permeable pavement.
22 "Permeable pavement" means paving material that absorbs water or allows
23 water to infiltrate through the paving material. Permeable pavement materials
24 include porous concrete, permeable interlocking concrete pavers, concrete
25 grid pavers, porous asphalt, and any other material with similar characteristics.
26 Compacted gravel shall not be considered permeable pavement.

(42) The Department shall develop and utilize a process for selection of transportation projects that is based on professional standards in order to most efficiently use limited resources to benefit all citizens of the State. The strategic prioritization process should be a systematic, data-driven process that includes a combination of quantitative data, qualitative input, and multimodal characteristics, and should include local input. The Department shall develop a process for standardizing or approving local methodology used in Metropolitan Planning Organization and Rural Transportation Planning Organization prioritization.

(43) For the purposes of financing an agreement under subdivision (39a) of this section, the Department of Transportation may act as a conduit issuer for private activity bonds to the extent the bonds do not constitute a debt obligation of the State. The issuance of private activity bonds under this subdivision and any related actions ~~shall be~~ is governed by ~~The the~~ State and Local Government Revenue Bond Act, Article 5 of Chapter 159 of the General Statutes, with G.S. 159-88 satisfied by adherence to the requirements of subdivision (39a) of this section.

(44) ~~The Department is authorized to~~ To contract for sponsorship arrangements for Department operations and may solicit contracts for ~~such these~~ these arrangements pursuant to Article 2 of this Chapter. All amounts collected and all savings realized as a result of these sponsorship arrangements shall be used by the Department toward funding of maintenance activities.

(44a) Where the Department owns or leases the passenger rail facility, owns or leases the rail equipment, or holds leasehold or license rights for the purpose of operating passenger stations, the Department may operate or contract for

1 the following receipt-generating activities and use the proceeds to fund
2 passenger rail operations:

3 a. Where the Department owns the passenger rail facility or owns or
4 leases the rail equipment, operation of concessions on State-funded
5 passenger trains and at passenger rail facilities to provide to passengers
6 food, drink, and other refreshments, personal comfort items, Internet
7 access, and souvenirs publicizing the passenger rail system.

8 b. Where the Department holds leasehold or license rights for the purpose
9 of operating passenger stations, operation of concessions at rail
10 passenger facilities to provide food, drink, and other refreshments,
11 personal comfort items, Internet access, and souvenirs publicizing the
12 passenger rail system, in accordance with the terms of the leasehold or
13 license.

14 c. Advertising on or within the Department's passenger rail equipment or
15 facility, including display advertising and advertising delivered to
16 passengers through the use of video monitors, public address systems
17 installed in passenger areas, and other electronic media.

18 d. The sale of naming rights to Department-owned passenger rail
19 equipment or facilities.

20 (45) The Department shall not transfer ownership of a State-owned concrete arch
21 bridge to any public, private, or nonprofit entity as part of any bridge
22 relocation or reuse program project unless the entity assumes all liability
23 associated with the bridge and posts a bond or other financial assurance
24 acceptable to the Department to cover the present value of future maintenance
25 costs, as well as any right-of-way or other additional costs if the bridge

1 transfer would require the Department to change the planned route of any
2 replacement structure."

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1 **9.(a) [16.(a)]**

2 **"§ 143-64.02. Definitions.**

3 ~~As used in Part 1 of this Article, except where the context clearly requires otherwise:~~The
 4 following definitions apply in Part 1 of this Article:

5 (1) ~~"Agency" means an Agency. – An existing~~ department, institution,
 6 commission, committee, board, division, or bureau of the State.

7 (2) ~~"Nonprofit tax exempt organizations" means the Nonprofit tax exempt~~
 8 organizations. – The following entities certified by the Internal Revenue
 9 Service as tax-exempt nonprofit organizations under ~~section~~Section 501(c)(3)
 10 of the United States Internal Revenue Code of 1954: medical institutions,
 11 hospitals, clinics, health centers, school systems, schools, colleges,
 12 universities, schools for ~~the mentally retarded,~~ individuals with intellectual
 13 disabilities, schools for ~~the physically handicapped,~~ individuals with physical
 14 disabilities, radio and television stations licensed by the Federal
 15 Communications Commission as educational radio or educational television
 16 stations, public libraries, civil defense organizations, and nonprofit entities
 17 that are qualified under rules adopted by the State Surplus Property Agency
 18 of the Department of Administration to refurbish computers and donate them
 19 to low-income students or households throughout the State.

20 (3) ~~"Recyclable material" means a Recyclable material. – A recyclable material,~~
 21 as defined in G.S. 130A-290, that the Secretary of Administration determines,
 22 consistent with G.S. 130A-309.14, to be a recyclable material.

23 (4) ~~"State owned" means supplies, State owned. – Supplies, materials, and~~
 24 equipment in the possession of the State of North Carolina and purchased with
 25 State funds, personal property donated to the State, or personal property
 26 purchased with other funds that give ownership to the State.

(5) ~~"Surplus property" means personal~~ Surplus property. – Personal property that
is no longer needed by a State agency."

1 **9.(b) [16.(b)]**

2 **"§ 143-64.2. Authority and duties of the State agency for federal surplus property.**

3 (a) The State agency for federal surplus property ~~is hereby authorized and~~
4 ~~empowered~~ may do all of the following:

5 (1) ~~To acquire~~ Acquire from the United States of America such property,
6 including equipment, materials, books, or other supplies under the control of
7 any department or agency of the United States of America as may be usable
8 and necessary for educational purposes, public health purposes, or civil
9 defense purposes, including ~~research~~; research.

10 (2) ~~To warehouse such property; and~~ Warehouse the property.

11 (3) ~~To distribute such~~ Distribute the property to tax-supported or nonprofit and
12 tax-exempt (under ~~section~~ Section 501(c)(3) of the United States Internal
13 Revenue Code of 1954) medical institutions, hospitals, clinics, health centers,
14 school systems, schools, colleges, universities, schools for ~~the mentally~~
15 ~~retarded~~, individuals with intellectual disabilities, schools for ~~the physically~~
16 ~~handicapped~~, individuals with physical disabilities, radio and television
17 stations licensed by the Federal Communications Commission as educational
18 radio or educational television stations, public libraries, civil defense
19 organizations, and such other eligible donees within the State as are permitted
20 to receive surplus property of the United States of America under the Federal
21 Property and Administrative Services Act of 1949, as amended.

22 (b) The State agency for federal surplus property may adopt rules necessary to carry out
23 Part 2 of this Article.

24 (c) The State agency for federal surplus property may appoint advisory boards or
25 committees as needed to ensure that Part 2 of this Article and the rules adopted under Part 2 of
26 this Article are consistent with federal law concerning surplus property.

1 (d) The State agency for surplus property ~~is authorized and empowered to may~~ take such
2 action, make such expenditures and enter into such contracts, ~~agreements~~ agreements, and
3 undertakings for and in the name of the State, require such reports and make such investigations
4 as may be required by law or regulation of the United States of America in connection with the
5 receipt, warehousing, and distribution of property received by the State agency for federal surplus
6 property from the United States of America.

7 (e) The State agency for federal surplus property ~~is authorized and empowered to may~~
8 act as a clearinghouse of information for the public and private nonprofit institutions and agencies
9 referred to in subsection (a) of this section, ~~to may~~ locate property available for acquisition from
10 the United States of America, ~~to may~~ ascertain the terms and conditions under which ~~such the~~
11 property may be obtained, ~~to may~~ receive requests from the ~~above mentioned~~ institutions and
12 agencies and ~~to may~~ transmit to them all available information in reference to ~~such the~~ property,
13 and ~~to may~~ aid and assist ~~such the~~ institutions and agencies in every way possible in the
14 ~~consummation or acquisition or transactions hereunder consummation, acquisition, or~~
15 transactions under this section.

16 (f) The State agency for federal surplus property, in the administration of Part 2 of this
17 Article, shall cooperate to the fullest extent consistent with the provisions of Part 2 of this Article,
18 with the departments or agencies of the United States of America and shall make such reports in
19 such form and containing such information as the United States of America or any of its
20 departments or agencies may from time to time require, and it shall comply with the laws of the
21 United States of America and the rules and regulations of any of the departments or agencies of
22 the United States of America governing the allocation, transfer, use, or accounting for, property
23 donable or donated to the State."

1 9.(c) [16.(c)]

2 "§ 143-117. Institutions included.

3 All persons admitted to the following institutions operated by the Department of Health and
4 Human Services are required to pay the actual cost of their care, treatment, ~~training-training~~, and
5 maintenance at these institutions: regional psychiatric hospitals, special care centers, ~~regional~~
6 ~~mental retardation centers~~, regional developmental centers, schools for ~~emotionally disturbed~~
7 ~~children~~, children with serious emotional disturbances, and alcohol and drug abuse treatment
8 centers."

1 **9.(d) [16.(d)]**

2 **"§ 143-117.1. Definitions.**

3 ~~As used in this Article, the following terms have the meaning specified unless the content~~
4 ~~clearly implies otherwise:~~The following definitions apply in this Article:

5 (1) ~~"Care" means care, Care. – Care,~~ treatment, training, maintenance, ~~habilitation~~
6 habilitation, and rehabilitation of a person admitted to institutions covered by
7 this Article.

8 (2) ~~"Department" means the Department. – The~~ Department of Health and Human
9 Services.

10 (3) ~~"Persons admitted" means clients~~ Persons admitted. – Clients of regional
11 psychiatric hospitals, State special care centers, ~~regional mental retardation~~
12 ~~centers,~~ regional developmental centers, schools for ~~emotionally disturbed~~
13 ~~children, children with serious emotional disturbances,~~ and alcohol and drug
14 abuse treatment centers, including clients who may be treated on an outpatient
15 basis.

16 (4) ~~"Secretary" means the Secretary. – The~~ Secretary of Health and Human
17 Services."

10.(a) [18.(a)] [Ask DPS attorneys about Unit 18. Also, should there be definitions for Chapter 148 for "Secretary", "Division", "Department"?]

"§ 148-19. Health services.

(a) The general policies, ~~rules~~ rules, and regulations of the Division of Adult Correction and Juvenile Justice of the Department of Public Safety shall prescribe standards for health services to prisoners, which shall include preventive, diagnostic, and therapeutic measures on both an outpatient and a hospital basis, for all types of patients. A prisoner may be taken, when necessary, to a medical facility outside the State prison system. The Division of Adult Correction and Juvenile Justice of the Department of Public Safety shall seek the cooperation of public and private agencies, institutions, ~~officials~~ officials, and individuals in the development of adequate health services to prisoners.

(b) Upon request of the Secretary of Public Safety, the Secretary of Health and Human Services may detail personnel employed by the Department of Health and Human Services to the Division of Adult Correction and Juvenile Justice of the Department of Public Safety for the purpose of supervising and furnishing medical, psychiatric, psychological, dental, and other technical and scientific services to the Division of Adult Correction and Juvenile Justice of the Department of Public Safety. The compensation, allowances, and expenses of the personnel detailed under this section may be paid from applicable appropriations to the Department of Health and Human Services, and may be reimbursed from applicable appropriations to the Division of Adult Correction and Juvenile Justice of the Department of Public Safety. The Secretary of Public Safety may make similar arrangements with any other agency of State government able and willing to aid the Division of Adult Correction and Juvenile Justice of the Department of Public Safety to meet the needs of prisoners for health services.

(c) Each prisoner committed to the Division of Adult Correction and Juvenile Justice of the Department of Public Safety shall receive a physical and mental examination by a health care professional authorized by the North Carolina Medical Board to perform ~~such~~ the examinations

1 as soon as practicable after admission and before being assigned to work. The prisoner's work
2 and other assignments shall be made with due regard for the prisoner's physical and mental
3 condition.

4 (d) The Commission for Mental Health, Developmental Disabilities, and Substance
5 Abuse Services shall adopt standards for the delivery of mental health and ~~mental retardation~~
6 ~~behavioral health~~ services to inmates in the custody of the Division of Adult Correction and
7 Juvenile Justice of the Department of Public Safety. The Commission for Mental Health,
8 Developmental Disabilities, and Substance Abuse Services shall give the Secretary of Public
9 Safety an opportunity to review and comment on proposed standards prior to promulgation of
10 ~~such the~~ standards; however, final authority to determine ~~such the~~ standards remains with the
11 Commission. The Secretary of the Department of Health and Human Services shall designate an
12 agency or agencies within the Department of Health and Human Services to monitor the
13 implementation by the Division of Adult Correction and Juvenile Justice of the Department of
14 Public Safety of these standards and of substance abuse standards adopted by the Division of
15 Adult Correction and Juvenile Justice of the Department of Public Safety."

16 *[Staff Note: 1989, c. 625, amended Chapter 122C by replacing "mental retardation" with*
17 *"developmental disabilities". Under G.S. 122C-117, an area authority shall "[e]ngage in*
18 *comprehensive planning, budgeting, implementing, and monitoring of community-based mental*
19 *health, developmental disabilities, and substance abuse services.]*
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1 **10.(b) [18.(b)]**

2 **"§ 148-22. Treatment programs.**

3 (a) The general policies, ~~rules~~rules, and regulations of the Division of Adult Correction
 4 and Juvenile Justice of the Department of Public Safety shall provide for humane treatment of
 5 prisoners and for programs to effect their correction and return to the community as promptly as
 6 practicable. Visits and correspondence between prisoners and approved friends shall be
 7 authorized under reasonable conditions, and family members shall be permitted and encouraged
 8 to maintain close contact with the prisoners unless ~~such~~the contacts prove to be hurtful.
 9 Casework, counseling, and psychotherapy services provided to prisoners may be extended to
 10 include members of the prisoner's family if practicable and necessary to achieve the purposes of
 11 ~~such~~the programs. Education, library, recreation, and vocational training programs shall be
 12 developed so as to coordinate with corresponding services and opportunities which will be
 13 available to the prisoner when he or she is released. Programs may be established for the
 14 treatment and training of ~~mentally retarded prisoners with intellectual or developmental~~
 15 ~~disabilities~~ and other special groups. These programs may be operated in segregated sections of
 16 facilities housing other prisoners or in separate facilities.

17 (b) The Division of Adult Correction and Juvenile Justice of the Department of Public
 18 Safety may cooperate with and seek the cooperation of public and private agencies, institutions,
 19 officials, and individuals in the development and conduct of programs designed to give persons
 20 committed to the Division opportunities for physical, ~~mental~~mental, and moral improvement.
 21 The Division may enter into agreements with other agencies of federal, ~~State~~State, or local
 22 government and with private agencies to promote the most effective use of available resources.

23 Specifically the Secretary of Public Safety may enter into contracts or agreements with
 24 appropriate public or private agencies offering needed services including health, mental health,
 25 ~~mental retardation, behavioral health,~~ substance abuse, ~~rehabilitative~~rehabilitative, or training
 26 services for such inmates of the Division of Adult Correction and Juvenile Justice of the

1 Department of Public Safety as the Secretary may deem eligible. These agencies shall be
2 reimbursed from applicable appropriations to the Division of Adult Correction and Juvenile
3 Justice of the Department of Public Safety for services rendered at a rate not to exceed that which
4 ~~such the~~ agencies normally receive for serving their regular clients.

5 The Secretary may contract for the housing of work-release inmates at county jails and local
6 confinement facilities. Inmates may be placed in the care of ~~such the~~ agencies but shall remain
7 the responsibility of the Division and shall be subject to the complete supervision of the Division.
8 The Division may reimburse ~~such the~~ agencies for the support of ~~such the~~ inmates at a rate not
9 in excess of the average daily cost of inmate care in the corrections unit to which the inmate
10 would otherwise be assigned."

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1 **11.(a) [19.(a)]**

2 **"§ 153A-221. Minimum standards.**

3 (a) The Secretary shall develop and publish minimum standards for the operation of local
4 confinement facilities and may from time to time develop and publish amendments to the
5 standards. The standards shall be developed with a view to providing secure custody of prisoners
6 and to protecting their health and welfare and providing for their humane treatment. The
7 standards shall provide ~~for~~for all of the following:

8 (1) Secure and safe physical ~~facilities~~facilities.

9 (2) Jail ~~design~~design.

10 (3) Adequacy of space per ~~prisoner~~prisoner.

11 (4) Heat, light, and ~~ventilation~~ventilation.

12 (5) Supervision of ~~prisoners~~prisoners.

13 (6) Personal hygiene and comfort of ~~prisoners~~prisoners.

14 (7) Medical care for prisoners, including mental health, ~~mental retardation~~,
15 behavioral health, and substance abuse ~~services~~services.

16 (8) ~~Sanitation~~Sanitation.

17 (9) Food allowances, food preparation, and food ~~handling~~handling.

18 (10) Any other provisions that may be necessary for the safekeeping, privacy, care,
19 protection, and welfare of prisoners.

20 (b) In developing the standards and any amendments thereto, the Secretary shall consult
21 with organizations representing local government and local law enforcement, including the North
22 Carolina Association of County Commissioners, the North Carolina League of Municipalities,
23 the North Carolina Sheriffs' Association, and the North Carolina Police Executives' Association.
24 The Secretary shall also consult with interested State departments and agencies, including the
25 Division of Adult Correction and Juvenile Justice of the Department of Public Safety, the
26 Department of Health and Human Services, the Department of Insurance, and the North Carolina

Criminal Justice Education and Training Standards Commission, and the North Carolina Sheriffs' Education and Training Standards Commission.

(c) Before the standards or any amendments thereto may become effective, they must be approved by the Commission and the Governor. Upon becoming effective, they have the force and effect of law.

(d) Notwithstanding any law or rule to the contrary, each dormitory in a county detention facility may house up to 64 inmates as long as the dormitory provides all of the following:

(1) A minimum floor space of 70 square feet per inmate, including both the sleeping and dayroom areas.

(2) One shower per eight inmates, one toilet per eight inmates, one sink with a security mirror per eight inmates, and one water fountain.

(3) A telephone jack or other telephone arrangement provided within the dormitory.

(4) Space designed to allow a variety of activities.

(5) Sufficient seating and tables for all inmates.

(6) A way for officers to observe the entire area from the entrance."

[Staff Note: 1989, c. 625, amended Chapter 122C by replacing "mental retardation" with "developmental disabilities". Under G.S. 122C-117, an area authority shall "[e]ngage in comprehensive planning, budgeting, implementing, and monitoring of community-based mental health, developmental disabilities, and substance abuse services.]

1 **11.(b) [19.(b)]**

2 **"§ 153A-248. Health-related appropriations.**

3 (a) A county may appropriate revenues not otherwise limited as to use by ~~law~~law to all
4 of the following:

- 5 (1) ~~To a~~A licensed facility for ~~the mentally retarded,~~ individuals with intellectual
6 or developmental disabilities, whether publicly or privately owned, to assist
7 in maintaining and developing facilities and treatment, if the board of
8 commissioners determines that the care offered by the facility is available to
9 residents of the county. The facility need not be located within the county.
- 10 (2) ~~To a~~A sheltered workshop or other private, nonprofit, charitable organization
11 offering work or training activities to ~~the physically or mentally handicapped,~~
12 individuals with physical, intellectual, or developmental disabilities, and may
13 otherwise assist ~~such an~~the organization.
- 14 (3) ~~To an~~An orthopedic hospital, whether publicly or privately owned, to assist
15 in maintaining and developing facilities and treatment, if the board of
16 commissioners determines that the care offered by the hospital is available to
17 residents of the county. The hospital need not be located within the county.
- 18 (4) ~~To a~~A training center or other private, nonprofit, charitable organization
19 offering education, treatment, rehabilitation, or developmental programs to
20 ~~the physically or mentally handicapped,~~ individuals with physical,
21 intellectual, or developmental disabilities, and may otherwise assist ~~such~~
22 ~~organizations; provided, however, such action~~the organizations. Such action,
23 however, shall be with the concurrence of the county board of ~~education; and~~
24 ~~provided, further, that within~~education. Within 30 days after receipt of the
25 request for concurrence, the county board of education shall notify the board
26 of county commissioners whether it concurs, and should it fail to so notify the

1 board of county commissioners within ~~such~~this period, it shall be deemed to
2 have concurred.

3 (b) The ordinance making the appropriation shall state specifically what the appropriation
4 is to be used for, and the board of commissioners shall require that the recipient account for the
5 appropriation at the close of the fiscal year."

1 **12. [20.(b)]**

2 **"§ 159-48. For what purposes bonds may be issued.**

3 (a) Each unit of local government ~~is authorized to may~~ borrow money and issue its bonds
4 under this Article in evidence thereof for any one or more of the following purposes:

- 5 (1) To suppress riots, insurrections, or any extraordinary breach of law and order.
- 6 (2) To supply an unforeseen deficiency in the revenue when taxes actually
7 received or collected during the fiscal year fall below collection estimates
8 made in the annual budget ordinance within the limits prescribed in
9 G.S. 159-13.
- 10 (3) To meet emergencies threatening the public health or safety, as conclusively
11 determined in writing by the Governor.
- 12 (4) To refund outstanding revenue bonds or revenue bond anticipation notes.
- 13 (5) To refund outstanding general obligation bonds or general obligation bond
14 anticipation notes.
- 15 (6) To fund judgments for specified sums of money entered against the unit by a
16 court of competent jurisdiction.
- 17 (7) To fund valid, existing obligations of the unit not incurred by the borrowing
18 of money.

19 (b) Each county and city ~~is authorized to may~~ borrow money and issue its bonds under
20 this Article in evidence thereof for the purpose of paying any capital costs of any one or more of
21 the following:

- 22 (1) Providing airport facilities, including without limitation related land, landing
23 fields, runways, clear zones, lighting, navigational and signal systems,
24 hangars, terminals, offices, shops, and parking facilities.
- 25 (2) Providing armories for the North Carolina National Guard.

- (3) Providing auditoriums, coliseums, arenas, stadiums, civic centers, convention centers, and facilities for exhibitions, athletic and cultural events, shows, and public gatherings.
- (4) Providing beach improvements, including without limitation jetties, seawalls, groins, moles, sand dunes, vegetation, additional sand, pumps and related equipment, and drainage channels, for the control of beach erosion and the improvement of beaches.
- (5) Providing cemeteries.
- (6) Providing facilities for fire fighting and prevention, including without limitation headquarters buildings, station buildings, training facilities, hydrants, alarm systems, and communications systems.
- (7) Providing hospital facilities, including without limitation general, tuberculosis, mental, chronic disease, and other types of hospitals and related facilities such as laboratories, outpatient departments, nurses' homes and training facilities, and central service facilities operated in connection with hospitals; facilities for the provision of public health services, including related facilities such as laboratories, clinics, and administrative offices; facilities specially designed for the diagnosis, treatment, education, training, or custodial care of ~~the mentally retarded,~~ individuals with intellectual or developmental disabilities, including facilities for training specialists and sheltered workshops for ~~the mentally retarded,~~ individuals with intellectual or developmental disabilities; nursing homes; and in connection with the foregoing, laundries, nurses', doctors', or interns' residences, administrative buildings, research facilities, maintenance, storage, and utility facilities, auditoriums, dining halls, food service and preparation facilities, fire prevention facilities, mental and physical health care facilities, dental care

1 facilities, nursing schools, mental teaching facilities, offices, parking
2 facilities, and other supporting service structures.

3 (8) Providing land for corporate purposes.

4 (9) Providing facilities for law enforcement, including without limitation
5 headquarters buildings, station buildings, jails and other confinement
6 facilities, training facilities, alarm systems, and communications systems.

7 (10) Providing library facilities, including without limitation fixed and mobile
8 libraries.

9 (11) Providing art galleries, museums, and art centers, and providing for historic
10 properties.

11 (12) Providing parking facilities, including on- and off-street parking, and in
12 connection therewith any area or place for the parking and storing of
13 automobiles and other vehicles open to public use, with or without charge,
14 including without limitation meters, buildings, garages, driveways, and
15 approaches.

16 (13) Providing parks and recreation facilities, including without limitation land,
17 athletic fields, parks, playgrounds, recreation centers, shelters, stadiums,
18 arenas, permanent and temporary stands, golf courses, swimming pools,
19 wading pools, marinas, and lighting.

20 (14) Providing public building, including without limitation buildings housing
21 courtrooms, other court facilities, and council rooms, office buildings, public
22 markets, public comfort stations, warehouses, and yards.

23 (15) Providing public vehicles, including without limitation those for law
24 enforcement, fire fighting and prevention, sanitation, street paving and
25 maintenance, safety and public health, and other corporate purposes.

- (16) Providing for redevelopment through the acquisition of land and the improvement thereof for assisting local redevelopment commissions.
- (17) Providing sanitary sewer systems, including without limitation community sewerage facilities for the collection, treatment, and disposal of sewage or septic tank systems and other on-site collection and disposal facilities or systems.
- (18) Providing solid waste disposal systems, including without limitation land for sanitary landfills, incinerators, and other structures and buildings.
- (19) Providing storm sewers and flood control facilities, including without limitation levees, dikes, diversionary channels, drains, catch basins, and other facilities for storm water drainage.
- (20) Providing voting machines.
- (21) Providing water systems, including without limitation facilities for the supply, storage, treatment, and distribution of water.
- (22) Providing for any other purpose for which it is authorized, by general laws uniformly applicable throughout the State, to raise or appropriate money, except for current expenses.
- (23) Providing public transportation facilities, including without limitation equipment for public transportation, buses, surface and below-ground railways, ferries, and garage facilities.
- (24) Providing industrial parks, land suitable for industrial or commercial purposes, shell buildings, in order to provide employment opportunities for citizens of the county or city.
- (25) Providing property to preserve a railroad corridor.
- (26) Undertaking public activities in or for the benefit of a development financing district pursuant to a development financing plan.

1 (c) Each county ~~is authorized to may~~ borrow money and issue its bonds under this Article
2 in evidence of the debt for the purpose of, in the case of subdivisions (1) through (4b) of this
3 subsection, paying any capital costs of any one or more of the purposes and, in the case of
4 subdivisions (5) and (6) of this subsection, to finance the cost of the purpose:

5 (1) Providing community college facilities, including without limitation
6 buildings, plants, and other facilities, physical and vocational educational
7 buildings and facilities, including in connection therewith classrooms,
8 laboratories, libraries, auditoriums, administrative offices, student unions,
9 dormitories, gymnasiums, athletic fields, cafeterias, utility plants, and
10 garages.

11 (2) Providing courthouses, including without limitation offices, meeting rooms,
12 court facilities and rooms, and detention facilities.

13 (3) Providing county homes for the indigent and infirm.

14 (4) Providing school facilities, including without limitation schoolhouses,
15 buildings, plants and other facilities, physical and vocational educational
16 buildings and facilities, including in connection therewith classrooms,
17 laboratories, libraries, auditoriums, administrative offices, gymnasiums,
18 athletic fields, lunchrooms, utility plants, garages, and school buses and other
19 necessary vehicles.

20 (4a) Providing improvements to subdivision and residential streets pursuant to
21 G.S. 153A-205.

22 (4b) Providing land for present or future county corporate, open space, community
23 college, and public school purposes.

24 (5) Providing for the octennial revaluation of real property for taxation.

25 (6) Providing housing projects for persons of low or moderate income, including
26 construction or acquisition of projects to be owned by a county,

1 redevelopment commission, or housing authority and the provision of loans,
 2 grants, interest supplements, and other programs of financial assistance to
 3 ~~such these~~ persons. A housing project may provide housing for persons of
 4 other than low or moderate income if at least forty percent (40%) of the units
 5 in the project are exclusively reserved for persons of low or moderate income.
 6 No rent subsidy ~~may shall~~ be paid from bond proceeds.

7 (d) Each city ~~is authorized to may~~ borrow money and issue its bonds under this Article
 8 in evidence thereof for the purpose of paying any capital costs of any one or more of the
 9 following:

- 10 (1) Repealed by Session Laws 1977, c. 402, s. 2.
- 11 (2) Providing cable television systems.
- 12 (3) Providing electric systems, including without limitation facilities for the
 13 generation, transmission, and distribution of electric light and power.
- 14 (4) Providing gas systems, including without limitation facilities for the
 15 production, storage, ~~transmission-transmission~~, and distribution of gas, where
 16 systems ~~shall~~ also include the purchase ~~and/or or~~ lease of natural gas fields
 17 and natural gas reserves and the purchase of natural gas supplies, and where
 18 any parts of ~~such the~~ systems may be located either ~~within the State or~~
 19 ~~without~~ inside or outside the State.
- 20 (5) Providing streets and sidewalks, including without limitation bridges,
 21 viaducts, causeways, overpasses, underpasses, and alleys; paving, grading,
 22 resurfacing, and widening streets; sidewalks, curbs and gutters, culverts, and
 23 drains; traffic controls, signals, and markers; lighting; and grade crossings and
 24 the elimination thereof and grade separations.
- 25 (6) Improving existing systems or facilities for the transmission or distribution of
 26 telephone services.

(7) Providing housing projects for the benefit of persons of low income, or moderate income, or low and moderate income, including without limitation (i) construction or acquisition of projects to be owned by a city, redevelopment commission or housing authority, and (ii) loans, grants, interest supplements and other programs of financial assistance to persons of low income, or moderate income, or low and moderate income, and developers of housing for persons of low income, or moderate income, or low and moderate income. A housing project may provide housing for persons of other than low or moderate income, as long as at least twenty percent (20%) of the units in the project are set aside for housing for the exclusive use of persons of low income. No rent subsidy ~~may shall~~ be paid from bond proceeds.

(e) Each sanitary district, mosquito control district, hospital district, merged school administrative unit described in ~~G.S. 115C-513;~~ G.S. 115C-513, metropolitan sewerage district, metropolitan water district, metropolitan water and sewerage district, county water and sewer district, regional public transportation ~~authority~~ authority, and special airport district ~~is~~ authorized to may borrow money and issue its bonds under this Article in evidence thereof for the purpose of paying any capital costs of any one or more of the purposes for which it is authorized, by general laws uniformly applicable throughout the State, to raise or appropriate money, except for current expenses.

(f) For any of the purposes authorized by subsections (b), (c), (d), or (e) of this section, a unit may do any of the following that it considers necessary or convenient:

- (1) Acquire, construct, erect, provide, develop, install, furnish, and ~~equip;~~ and equip.
- (2) Reconstruct, remodel, alter, renovate, replace, refurnish, and ~~reequip;~~ and reequip.
- (3) Enlarge, expand, and ~~extend;~~ and extend.

(4) Demolish, relocate, improve, grade, drain, landscape, pave, widen, and resurface.

(g) Bonds for two or more unrelated purposes, not of the same general class or character, shall not be authorized by the same bond order. However, bonds for any of the purposes listed in any subdivision of any subsection of this section shall be deemed to be for one purpose and may be authorized by the same bond order. In addition, nothing ~~herein may be deemed to prohibit in~~ this section prohibits the combining of purposes from any ~~of such paragraphs subdivision of any~~ subsection of this section and the authorization of bonds therefor by the same bond order to the extent that the purposes are not unrelated.

(h) As used in this section, "capital costs" include, without limitation, all of the following:

(1) The costs of doing any or all of the things mentioned in subsection (f) of this ~~section; and~~ section.

(2) The costs of all property, both real and personal and both improved and unimproved, plants, works, appurtenances, structures, facilities, furnishings, machinery, equipment, vehicles, easements, water rights, franchises, and licenses used or useful in connection with the purpose ~~authorized;~~ and authorized.

(3) The costs of demolishing or moving structures from land acquired and acquiring any lands to which ~~such the~~ structures are to be ~~moved; and~~ moved.

(4) Financing charges, including estimated interest during construction and for six months ~~thereafter; and~~ thereafter.

(5) The costs of plans, specifications, studies and reports, surveys, and estimates of costs and ~~revenues; and~~ revenues.

(6) The costs of bond printing and ~~insurance; and~~ insurance.

(7) Administrative and legal ~~expenses; and~~ expenses.

1 (8) Any other services, costs, and expenses necessary or incidental to the purpose
2 authorized.

3 (i) This section does not authorize any unit to undertake any program, function, joint
4 undertaking, or service not otherwise authorized by law. It is intended only to authorize the
5 borrowing of money and the issuance of bonds within the limitations set out ~~herein~~ in this section
6 to finance programs, functions, joint undertakings, or services authorized by other portions of the
7 General Statutes or by city charters."

1 **SECTION 13.** This act does not affect the coverage, eligibility, rights,
2 responsibilities, or provision of state or federal services or benefits for individuals who have been
3 diagnosed with mental retardation and whose diagnosis has not been changed to a diagnosis of
4 intellectual disability.

5 **SECTION 14.** Section 3 becomes effective January 1, 2020, and applies to offenses
6 committed on or after that date. Section 4(a) becomes effective October 1, 2019, and applies to
7 contracts entered into on or after that date. The remainder of this act becomes effective October
8 1, 2019, and applies to proceedings commenced or services rendered on or after that date.